



ภาคผนวก

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กฎหมายและสิทธิประโยชน์ทางภาษีของประเทศเวียดนาม

THE STATE PRESIDENT

**ORDER No. 09/2008/L-CTN OF JUNE 12, 2008, ON THE PROMULGATION OF
LAW THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM**

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 50 of the Law on Promulgation of Legal Documents,

PROMULGATES:

the Law on Enterprise Income Tax, which was passed on June 3, 2008, by the XIIth National Assembly of the Socialist Republic of Vietnam at its third session.

LAW ON ENTERPRISE INCOME TAX

(No. 14/2008/QH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Enterprise Income Tax.

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

This Law provides for enterprise income taxpayers, taxable incomes, tax-exempt incomes, tax bases, tax calculation methods, and tax incentives.

Article 2.- Taxpayers

1. Taxpayers are goods and service production and business organizations which have taxable incomes under the provisions of this Law (below referred to as enterprises), including:

- a. Enterprises established under Vietnamese law;
- b. Enterprises established under foreign laws (below referred to as foreign enterprises) with or without Vietnam-based permanent establishments;
- c. Organizations established under the Law on Cooperatives;

- d. Non-business units established under Vietnamese law;
 - e. Other organizations engaged in income-generating production and business activities.
2. Enterprises having taxable incomes under Article 3 of this Law shall pay enterprise income tax as follows:
- a. Enterprises established under Vietnamese law shall pay tax on taxable incomes generated in and outside Vietnam;
 - b. Foreign enterprises with Vietnam-based permanent establishments shall pay tax on taxable incomes generated in Vietnam and taxable incomes generated outside Vietnam which are related to the operation of such establishments;
 - c. Foreign enterprises with Vietnam-based permanent establishments shall pay tax on taxable incomes generated in Vietnam which are not related to the operation of such permanent establishments.
 - d. Foreign enterprises without Vietnam-based permanent establishments shall pay tax on taxable incomes generated in Vietnam.
3. Foreign enterprises' permanent establishments are production and business establishment through which foreign enterprises conduct some or all income-generating production and business activities in Vietnam, including:
- a. Branches, executive offices, factories, workshops, means of transport, mines, oil and gas fields, or other places of extraction of natural resources in Vietnam;
 - b. Construction sites, construction works, installation and assembly projects;
 - c. Establishments providing services, including consultancy services through employees or other organizations or individuals;
 - d. Agents for foreign enterprises;
 - e. Vietnam-based representatives, in case of representatives which are competent to conclude contracts in the name of foreign enterprises or representatives which are incompetent to conclude contracts in the name of foreign enterprises but regularly deliver goods or provide services in Vietnam.

Article 3.- Taxable incomes

1. Taxable incomes include income from goods and service production and business activities and other incomes specified in Clause 2 of this Article.

2. Other incomes cover income from the transfer of capital or real estate; income from the right to own or use assets; income from the transfer, lease or liquidation of assets; income from interests, loans or foreign currency sales; refund of provisions; recovery of bad debts already written off; collection of payable debts of unidentifiable creditors; omitted income from previous years' business activities, and other incomes, including income generated from production and business activities outside Vietnam.

Article 4.- Tax-exempt incomes

1. Income from cultivation, husbandry and aquaculture of organizations established under the Law on Cooperatives.
2. Income from the application of technical services directly for agriculture.
3. Income from the performance of contracts on scientific research and technological development, trial products and products turned out with technologies applied for the first time in Vietnam.
4. Income from enterprises' goods and service production and business activities exclusively reserved for disabled, detoxified and HIV-infected laborers. The Government shall specify criteria and conditions for the determination of enterprises exclusively reserved for disabled, detoxified and HIV-infected laborers.
5. Income from job-training activities exclusively reserved for ethnic minority people, the disabled, children in extremely disadvantaged circumstances and persons involved in social evils.
6. Incomes divided for capital contribution, joint venture or association with domestic enterprises, after enterprise income tax has been paid under the provisions of this Law.
7. Received financial supports used for educational, scientific research, cultural, artistic, charitable, humanitarian and other social activities in Vietnam.

Article 5.- Tax period

1. An enterprise income tax period is the calendar year or fiscal year, except the cases defined in Clause 2 of this Article.
2. The enterprise income tax period upon each time of income generation applies to foreign enterprises specified at Points c and d, Clause 2, Article 2 of this Law.

Chapter II

TAX BASES AND TAX CALCULATION METHODS

Article 6.- Tax bases

Tax bases include taxed income and tax rate.

Article 7.- Determination of taxed income

1. Taxed income in a tax period is the taxable income minus tax-exempt incomes and losses carried forward from previous years.
2. Taxable income is turnover minus deductible expenses for production and business activities plus other incomes, including income received outside Vietnam.
3. Income from real estate transfer must be separately determined for tax declaration and payment.

The Government shall detail and guide the implementation of this Article.

Article 8.- Turnover

Turnover is the total sales, processing remuneration, service provision charges, subsidies and surcharges enjoyed by enterprises. Turnover is calculated in Vietnam dong; foreign currency turnover, if any, must be converted into Vietnam dong at the average exchange rate on the inter-bank foreign currency market announced by the State Bank of Vietnam at the time foreign-currency turnover is generated.

The Government shall detail and guide the implementation of this Article.

Article 9.- Deductible and non-deductible expenses upon determination of taxable incomes

1. Except the expenses specified in Clause 2 of this Article, enterprises are entitled to deduction of all expenses which fully meet the following conditions:

- a. They are actually paid expenses related to production and business activities;
- b. They are accompanied with adequate invoices and documents as prescribed by law.

2. Non-deductible expenses upon determination of taxable incomes include:

- a. Expense not fully satisfying the conditions specified in Clause 1 of this Article, except the uncompensated value of losses caused by natural disasters, epidemics or other force majeure circumstances;
- b. Fine for administrative violations;
- c. Expense already covered by other funding sources;

- d. Business administration expense allocated by foreign enterprises to their Vietnam-based permanent establishments in excess of the level calculated according to the allocation method prescribed by Vietnamese law;
 - e. Expense in excess of the law-prescribed norm for the deduction and setting up of provisions;
 - f. Expense for raw materials, materials, fuel, energy or goods in excess of the wastage rate set by enterprises and notified to tax offices and the actual ex-warehousing price;
 - g. Payment for interests on loans for production and business activities of entities other than credit institutions or economic organizations in excess of 150% of the basic interest rate announced by the State Bank of Vietnam at the time of loaning;
 - h. Fixed asset depreciation made in contravention of law;
 - i. Expenses advanced in contravention of law;
 - j. Salaries and wages of owners of private enterprises; remuneration paid to enterprise founders who do not personally administer production and business activities; salaries, wages and other accounted amounts payable to laborers which have actually not been paid to them or paid without invoices or documents as prescribed by law;
 - k. Loan interests paid corresponding to the insufficient amount of the charter capital;
 - l. Credited input value-added tax, value-added tax to be paid according to the credit method, and enterprise income tax;
 - m. Expense for advertisement, marketing, sales promotion and brokerage commissions; expense for reception, protocol and conferences; expense in support of marketing and payment discount; expense for press agencies' newspapers given as presents or gifts directly related to production and business activities in excess of 10% of total deductible expenses; for newly set up enterprises, such expense in excess of 15% of total deductible expenses for the first 3 years from the date of setting up. Total deductible expenses exclude the expenses specified at this Point; for trade activities, total deductible expenses exclude purchasing prices of sold goods;
 - n. Financial supports, excluding those for educational and healthcare activities and for mitigating natural disaster consequences and building houses of gratitude for the poor as prescribed by law.
3. Deductible foreign currency expenses upon the determination of taxable incomes must be converted into Vietnam dong at the average exchange rate on the inter-bank foreign currency market announced by the State Bank of Vietnam at the time foreign currency expenses arise.

The Government shall detail and guide the implementation of this Article.

Article 10.- Tax rates

1. The enterprise income tax rate is 25%, except the cases specified in Clause 2, this Article, and Article 13, of this Law.
2. The enterprise income tax rate applicable to activities of prospecting, exploring and exploiting oil and gas and other precious and rare natural resources is between 32% and 50%, depending on each project or business establishment. The Government shall detail and guide the implementation of this Article.

Article 11.- Tax calculation method

1. An enterprise income tax amount payable in a tax period is the taxed income multiplied by the tax rate; in case an enterprise has paid income tax outside Vietnam, the paid tax amount may be subtracted but must not exceed the enterprise income tax amount payable under the provisions of this Law.
2. The tax calculation method applicable to enterprises listed at Points c and d, Clause 2, Article 2 of this Law complies with the Government's regulations.

Article 12.- Places for tax payment

Enterprises shall pay tax at places where they are headquartered. In case an enterprise has a dependent cost-accounting production establishment operating in a province or centrally run city other than the place of its headquarters, the payable tax amount shall be calculated based on the ratio of expenses between the place where the production establishment is located and the place where the enterprise is headquartered. The decentralization, management and use of tax revenues comply with the State Budget Law. The Government shall detail and guide the implementation of this Article.

Chapter III

ENTERPRISE INCOME TAX INCENTIVES

Article 13.- Tax rate incentives

1. Newly set up enterprises under investment projects in geographical areas with extreme socio-economic difficulties, economic zones or hi-tech parks; newly set up enterprises under investment projects in the domains of high technology, scientific research and technological development, development of the State's infrastructure works of special importance, or manufacture of software

products are entitled to the tax rate of 10% for fifteen years.

2. Enterprises operating in education-training, vocational training, healthcare, cultural, sports and environmental domains are entitled to the tax rate of 10%.
3. Newly set up enterprises under investment projects in geographical areas with socio-economic difficulties are entitled to the tax rate of 20% for ten years.
4. Agricultural service cooperatives and people's credit funds are entitled to the tax rate of 20%.
5. For large-scale and hi-tech projects in which investment should be particularly attracted, the duration for application of tax rate incentives may be extended but must not exceed the duration specified in Clause 1 of this Article.
6. The duration for application of tax rate incentives specified in this Article is counted from the first year an enterprise has turnover. The Government shall detail and guide the implementation of this Article.

Article 14.- Tax exemption and reduction duration incentives

1. Newly set up enterprises under investment projects in geographical areas with extreme socio-economic difficulties, economic zones or hi-tech parks; newly set up enterprises under investment projects in the domains of high technology, scientific research and technological development, development of the State's infrastructure works of special importance or manufacture of software products; newly set up enterprises operating in education-training, vocational training, healthcare, cultural, sports and environmental domains are entitled to tax exemption for no more than four years and a 50% reduction of payable tax amounts for no more than nine subsequent years.
2. Newly set up enterprises newly set up under investment projects in geographical areas with socio-economic difficulties are entitled to tax exemption for no more than two years and a 50% reduction of payable tax amounts for no more than four subsequent years.
3. The tax exemption or reduction duration specified in this Article is counted from the first year an enterprise has taxable income; in case an enterprise has no taxable income for the first three years from the first year it has turnover, the tax exemption or reduction duration is counted from the fourth year. The Government shall detail and guide the implementation of this Article.

Article 15.- Other cases eligible for tax reduction

1. Production, construction or transport enterprises which employ many female laborers are entitled to reduction of enterprise income tax amounts equal to additional expenses for female laborers.

2. Enterprises which employ many ethnic minority laborers are entitled to reduction of enterprise income tax amounts equal to additional expenses for ethnic minority laborers. The Government shall detail and guide the implementation of this Article.

Article 16.- Carrying forward of losses

1. Loss-suffering enterprises may carry forward their losses to the subsequent year; those losses may be included in taxed income. The time limit for carrying forward losses is five years, counting from the year following the year the losses arise.

2. Enterprises suffering losses from real estate transfer activities may only carry forward losses into those activities' taxed income.

Article 17.- Deduction for setting up of enterprises' scientific and technological development funds

1. Enterprises established and operating under Vietnamese law may deduct up to 10% of taxed income for setting up their scientific and technological development funds.

2. Within five years after being set up, if a scientific and technological development fund is not used, has been used below 70% or used for improper purposes, the enterprise shall remit into the state budget the enterprise income tax amount calculated on the income already deducted for setting up the fund but not used or used for improper purposes and the interest on that enterprise income tax amount. The enterprise income tax rate used for calculating the to-be-recovered tax amount is the tax rate applicable to the enterprise during the time of operating the fund.

The interest rate for calculating the interest on the to-be-recovered tax amount calculated on the unused fund amount is the interest rate for one-year term treasury bonds applicable at the time of recovery, and the interest payment period is two years. The interest rate for calculating the interest on the to-be-recovered tax amount calculated on the fund amount used for improper purposes is the interest used for late payment fines under the provisions of the Tax Administration Law, and the interest payment period is counted from the time a fund is set up to the time of recovery.

3. Enterprises may not account expenses covered by their scientific and technological development funds as deductible ones upon the determination of taxable incomes in a tax period.

4. Enterprises' scientific and technological development funds may be used only for scientific and technological investment in Vietnam.

Article 18.- Conditions for application of tax incentives

1. Enterprise income tax incentives specified in Articles 13, 14, 15, 16 and 17 of this Law apply only to enterprises which implement regulations on accounting, invoices and documents and pay tax according to declaration.

2. Enterprises shall account separately income from production and business activities eligible for tax incentives specified in Articles 13 and 14 of this Law from income from production and business activities ineligible for tax incentives; if those incomes cannot be separately accounted, income from production and business activities eligible for tax incentives shall be determined based on the ratio between turnover from production and business activities eligible for tax incentives and total turnover.

3. Enterprise income tax incentives specified in Articles 13 and 14 of this Law do not apply to:

- a. Incomes specified in Clause 2, Article 3 of this Law;
- b. Income from activities of prospecting, exploring and mining oil, gas and other precious and rare natural resources;
- c. Income from prize-winning game or betting business as prescribed by law;
- d. Other cases specified by the Government.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 19.- Implementation effect

1. This Law takes effect on January 1, 2009.
2. This Law replaces Enterprise Income Tax Law No. 09/2003/QH11.
3. Enterprises which enjoy enterprise income tax incentives under Enterprise Income Tax Law No. 09/2003/QH11 may continue enjoying those incentives for the remaining duration under Enterprise Income Tax Law No. 09/2003/QH11; in case enterprise income tax incentives, including tax rate incentives and tax exemption and reduction duration, are lower than the tax incentives specified in this Law, the tax incentives under this Law apply for the remaining duration.

4. Enterprises which are entitled to tax exemption or reduction duration under Enterprise Income Tax Law No. 09/2003/QH11 but have no taxable income yet, the tax exemption or reduction duration will be counted under this Law and from the date this Law takes effect.

Article 20.- Implementation guidance.

The Government shall detail and guide the implementation of Articles 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 18 and other necessary contents of this Law to meet management requirements. This Law was passed on June 3, 2008, by the XIIth National Assembly of the Socialist Republic of Vietnam at its third session

LAW ON PERSONAL INCOME TAX

(No. 04/2007/QH12)

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Law provides for personal income taxpayers, taxable incomes, incomes eligible for personal income tax exemption or reduction, and personal income tax bases.

Article 2. Taxpayers

1. Personal income taxpayers include residents who earn taxable incomes specified in Article 3 of this Law inside and outside the Vietnamese territory and non-residents who earn taxable incomes specified in Article 3 of this Law inside the Vietnamese territory.

2. Resident means a person who satisfies one of the following conditions:

a. Being present in Vietnam for 183 days or more in a calendar year or 12 consecutive months counting from the first date of their presence in Vietnam;

b. Having a place of habitual residence in Vietnam, which is a registered place of permanent residence or a rented house for dwelling in Vietnam under a term rent contract.

3. Non-resident means a person who does not satisfy any of the conditions specified in Clause 2 of this Article.

Article 3. Taxable incomes

Incomes liable to personal income tax include the following kinds of income, except for incomes eligible for tax exemption specified in Article 4 of this Law:

1. Incomes from business activities, including:
 - a. Incomes from goods production or trading or service provision;
 - b. Incomes from independent professional activities of individuals possessing practice licenses or certificates in accordance with law.
2. Incomes from salaries and wages, including:
 - a. Salaries, wages and amounts of similar nature;
 - b. Allowances, except for those paid under legal provisions on preferential treatment of persons with meritorious services; defense or security allowances; hazard or danger allowances for persons working in branches, occupations or jobs at places where exist hazardous or dangerous elements; allowances for attraction of laborers to work in certain branches or in certain regions specified by law; allowances for sudden difficulties, allowances for laborers having labor accident or suffering from occupational disease, lump-sum maternity or child adoption allowances; allowances for working capacity loss, lump-sum retirement allowances, monthly survivorship allowances, severance and job loss allowances specified in the Labor Code, other allowances paid by the Social Insurance, and allowances for combat of social evils;
 - c. Remuneration of all kinds;
 - d. Sums of money earned for participation in business associations, boards of directors, control boards, management boards and other organizations;
 - e. Other monetary or non-monetary benefits received by taxpayers;
 - f. Bonuses, rewards, except for rewards accompanying honorary titles conferred by the State or international or national prizes; rewards for technical renovations, creations or inventions recognized by competent state agencies; rewards for detection and reporting of illegal acts to competent state agencies.
3. Incomes from capital investment, including:
 - a. Interests;
 - b. Dividends;
 - c. Incomes from capital investment in other forms, except for government bond interests.
4. Incomes from capital transfer, including:
 - a. Incomes from transfer of capital holdings in economic organizations;
 - b. Incomes from transfer of securities;

- c. Incomes from transfer of capital in other forms.
- 5. Incomes from transfer of real estate, including:
 - a. Incomes from transfer of rights to use land and assets attached to land;
 - b. Incomes from transfer of right to own or use residential houses;
 - c. Incomes from transfer of right to lease land or water surface;
 - d. Other incomes earned from transfer of real estate.
- 6. Incomes from won prizes, including:
 - a. Lottery winnings;
 - b. Sales promotion winnings;
 - c. Betting or casino winnings;
 - d. Winnings in prized games and contests and other forms of winning.
- 7. Incomes from copyright, including:
 - a. Incomes from assignment or licensing of intellectual property objects;
 - b. Incomes from technology transfer.
- 8. Incomes from commercial franchising.
- 9. Incomes from inheritances that are securities, capital holdings in economic organizations or business establishments, real estate and other assets subject to ownership or use registration.
- 10. Incomes from gifts that are securities, capital holdings in economic organizations or business establishments, real estate and other assets subject to ownership or use registration.

The Government shall detail and guide the implementation of this Article.

Article 4. Tax-exempt incomes

- 1. Incomes from transfer of real estate between spouses; parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or among blood siblings.
- 2. Incomes from transfer of residential houses, rights to use residential land and assets attached to residential land received by individuals who have only one residential house or land plot each.
- 3. Incomes from the value of land use rights of individuals who are allocated land by the State.
- 4. Incomes from receipt of inheritances or gifts that are real estate between spouses, parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or among blood siblings.

5. Incomes of households and individuals directly engaged in agricultural or forest production, salt making, aquaculture, fishing and trading of aquatic resources not yet processed into other products or preliminarily processed aquatic products.
6. Incomes from conversion of agricultural land allocated by the State to households and individuals for production.
7. Incomes from interests on deposits at credit institutions or interests from life insurance policies.
8. Incomes from foreign exchange remittances.
9. Wages paid for night shift or overtime work, which are higher than those paid for day shifts or prescribed working hours in accordance with law.
10. Retirement pensions paid by the Social Insurance.
11. Incomes from scholarships, including:
 - a. Scholarships granted from the state budget;
 - b. Scholarships granted by domestic and foreign organizations under their study promotion programs.
12. Incomes from indemnities paid under life insurance policies, non-life insurance policies, compensations for labor accidents, compensations paid by the State and other compensations as provided for by law.
13. Incomes received from charity funds licensed or recognized by competent state agencies and operating for charity, humanitarian or non-profit purposes.
14. Incomes received from governmental or non-governmental foreign aid for charity or humanitarian purposes approved by competent state agencies.

Article 5. Tax reduction

Taxpayers who face difficulties caused by natural disasters, fires, accidents or severe diseases and affecting their tax payment ability may be considered for tax reduction corresponding to the extent of damage they suffer from but not exceeding payable tax amounts.

Article 6. Conversion of taxable incomes into Vietnam dong

1. A taxable income received in a foreign currency must be converted into Vietnam dong at the average exchange transaction rate on the inter-bank foreign exchange market announced by the State Bank at the time of income generation.
2. A taxable income received in the form of a product or service must be converted into Vietnam

done at the market price of that product or service or of products or services of the same or similar type at the time of income generation.

Article 7. Tax period

1. For residents, tax period is specified as follows:

- a. Annual tax period, which is applicable to incomes from business, salaries and wages.
- b. Tax period upon each time of income generation, which is applicable to incomes from capital investment; incomes from capital transfer, except for incomes from securities transfer; incomes from real estate transfer; incomes from prizes; incomes from copyright; incomes from commercial franchising; incomes from inheritances; and gifts.
- c. Tax period upon each transfer or annual tax period, which is applicable to securities transfer.

Individuals who apply the annual tax period shall register with tax offices at the beginning of the year.

2. For non-residents, the tax period counted upon each time of income generation is applicable to all their taxable incomes.

Article 8. Tax administration and tax refund

1. Tax registration, declaration, withholding, payment, finalization and refund, handling of violations of the tax law, and tax administration measures comply with legal provisions on tax administration.

2. Individuals are entitled to tax refund in the following cases:

- a. Their paid tax amounts are larger than payable tax amounts;
- b. They have paid tax but their taxed incomes do not reach a tax-liable level;
- c. Other cases decided by competent state agencies.

Article 9. Application of treaties

If a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions on personal income tax different from the provisions of this Law, the provisions of that treaty prevail.

Chapter II

TAX BASES FOR RESIDENTS

Section 1. DETERMINATION OF TAXABLE INCOMES AND TAXED INCOMES

Article 10. Taxable incomes from business

1. A taxable income from business is determined to be equal to turnover minus reasonable expenses related to the generation of the taxable income from business in a tax period.
2. Turnover means the total of sales, processing remuneration, commissions, goods or service provision charges generated in a tax period from goods production and trading or service provision. The time of determination of turnover is the time of transfer of ownership of goods or completion of services or the time of making goods sale or service provision invoices.
3. Reasonable expenses related to the generation of taxable incomes from business in a tax period include:
 - a. Salaries, wages, remuneration and other payments to laborers;
 - b. Expenses for raw materials, fuels, materials, energy and goods used for production or business, charges for services purchased from outside;
 - c. Expenses for depreciation, regular repair and maintenance of fixed assets used for production or business;
 - d. Paid interests;
 - e. Management expenses;
 - f. Taxes, charges and fees payable under law and allowed to be accounted as expenses;
 - g. Other expenses related to the generation of incomes.
4. The determination of turnover and expenses is based on accounting norms, standards, regulations, documents and books prescribed by law.
5. If many persons jointly conduct business activities under the same business registration, taxable income of each of them is determined according to one of the following principles:
 - a. In proportion to their capital contributions stated in the business registration;
 - b. Under their agreement stated in the business registration;
 - c. According to the average per-capita income in case the business registration neither states their capital contributions nor contains any agreement on income division among them.
6. For business individuals who fail to strictly comply with regulations on accounting, invoices and documents and cannot measure turnover, expenses and taxable income, competent tax offices shall predetermine turnover and the ratio of taxable income in order to determine taxable income suitable to each industry or business line under the law on tax administration.

Article 11. Taxable incomes from salaries or wages

1. A taxable income from salary or wage is determined to be equal to the total of incomes specified in Clause 2, Article 3 of this Law and earned by a taxpayer in a tax period.

2. Time of determination of a taxable income from salary or wage is the time when an organization or individual pays income to a taxpayer or when a taxpayer receives income.

Article 12. Taxable incomes from capital investment

1. A taxable income from capital investment is the total of incomes from capital investment specified in Clause 3, Article 3 of this Law and earned by a taxpayer in a tax period.

2. Time of determination of a taxable income from capital investment is the time when an organization or individual pays income to a taxpayer or when a taxpayer receives income.

Article 13. Taxable incomes from capital transfer

1. A taxable income from capital transfer is determined to be equal to the selling price minus the buying price and reasonable expenses related to the generation of income from capital transfer.

2. If the buying price and expenses related to the securities transfer are unidentifiable, taxable income is determined to be the selling price of securities.

3. Time of determination of a taxable income from capital transfer is the time when the capital transfer transaction is completed in accordance with law. The Government shall detail and guide the implementation of this Article.

Article 14. Taxable incomes from real estate transfer

1. A taxable income from real estate transfer is determined to be equal to the real estate transfer price upon the transfer minus the real estate buying price and related expenses, specifically as follows:

a. Real estate transfer price is the contractual price at the time of transfer;

b. Real estate buying price is the contractual price at the time of purchase;

c. Related expenses to be subtracted are those recorded in vouchers and invoices lawfully, including charges and fees related to land use rights as prescribed by law; expenses for land revamp, house renovation, ground leveling; expenses for investment in building residential houses, infrastructures and architectures on land; and other expenses related to the real estate transfer.

2. If the buying price and expenses related to the transfer of a real estate are unidentifiable, the taxable income is determined to be the real estate transfer price.

3. The Government shall stipulate principles and methods of determination of real estate transfer prices in case transfer prices are unidentifiable or land use rights transfer prices stated in contracts are lower than land prices promulgated by provincial-level People's Committees and effective at the time of transfer.

4. Time of determination of a taxable income from real estate transfer is the time when the transfer contract becomes effective in accordance with law.

Article 15. Taxable incomes from won prizes

1. A taxable income from won prize is the prize value in excess of VND 10 million received by a taxpayer upon each time of winning.

2. Time of determination of a taxable income from won prize is the time when an organization or individual pays income to a taxpayer.

Article 16. Taxable incomes from copyright

1. A taxable income from copyright is an income in excess of VND 10 million earned by a taxpayer when assigning or licensing an intellectual property object or transferring a technology under a contract.

2. Time of determination of a taxable income from copyright is the time when an organization or individual pays income to a taxpayer.

Article 17. Taxable incomes from commercial franchising

1. A taxable income from commercial franchising is an income in excess of VND 10 million earned by a taxpayer under a commercial franchising contract.

2. Time of determination of a taxable from commercial franchising is the time when an organization or individual pays income to a taxpayer.

Article 18. Taxable incomes from inheritances or gifts

1. A taxable income from inheritance or gift is the value of an inherited asset or a gift in excess of VND 10 million received by a taxpayer upon each time of inheritance or gift receipt.

2. Time of determination of a taxable income is specified as follows:

- a. For an income from inheritance, it is the time when a taxpayer receives an inherited estate;
- b. For an income from gift, it is the time when an organization or individual presents a gift to a taxpayer or when a taxpayer receives the income.

Article 19. Reduction based on family circumstances

1. Reduction based on family circumstances means a sum of money deductible from pre-tax income from business, salary or wage of a resident taxpayer. Reduction based on family circumstances consists of the following two parts:

- a. Reduction for the taxpayer, which is VND 4 million/month (VND 48 million/year);
- b. Reduction for each dependant of the taxpayer, which is VND 1.6 million/month.

2. The level of reduction based on family circumstances applicable to dependants is determined on the principle that each dependant may be counted only once for tax reduction for a taxpayer.

3. Dependants of a taxpayer means persons a taxpayer is responsible for nurturing or taking care of, including:

- a. His/her minor children or disabled children who are incapable of working;
- b. Individuals who have no income or have incomes not exceeding the prescribed level, including adult children who are studying at a university, college, professional secondary school or job-training establishment; his/her spouse who is incapable of working; his/her parents who are beyond the working age or incapable of working; other support less persons whom the taxpayer has to directly nurture. The Government shall specify the income level and declaration for identification of dependants to be counted for reduction based on family circumstances.

Article 20. Reduction for charity or humanitarian donations

1. Charity or humanitarian donations are deductible from pre-tax income from business, salary or wage of a resident taxpayer, including:

- a. Donations to organizations or establishments that care for or nurture children in special plights, disabled people and support less elderly people.

- b. Donations to charity funds, humanitarian funds or study promotion funds.

2. Organizations, establishments and funds specified at Points a and b, Clause 1 of this Article must be those licensed or recognized by competent state agencies and operating for charity, humanitarian, study promotion or non-profit purposes.

Article 21. Taxed incomes

1. A taxed income from business, salary or wage is the total of taxable incomes specified in Articles 10 and 11 of this Law minus premiums of social insurance, health insurance and professional liability insurance for some professions and jobs subject to compulsory insurance and reductions specified in Articles 19 and 20 of this Law.

2. Taxed incomes from capital investment, capital transfer, real estate transfer, won prizes, copyright royalties, commercial franchising, inheritances or gifts are taxable incomes specified in Articles 12, 13, 14, 15, 16, 17 and 18 of this Law.

Section 2. TARIFFS

Article 22. Partially progressive tariff

1. The partially progressive tariff applies to taxed incomes specified in Clause 1.

2. The partially progressive tariff is specified below:

Tax grade	Taxed income per year (VND million)	Taxed income per month (VND million)	Tax rate (%)
1	Up to 60	Up to 5	5
2	Between over 60 and 120	Between over 5 and 10	10
3	Between over 120 and 216	Between over 10 and 18	15
4	Between over 216 and 384	Between over 18 and 32	20
5	Between over 384 and 624	Between over 32 and 52	25
6	Between over 624 and 960	Between over 52 and 80	30
7	Over 960	Over 80	35

Article 23. Whole income tariff

1. The whole income tariff applies to taxed incomes specified in Clause 2, Article 21 of this Law.

2. The whole income tariff is specified below:

Taxed incomes	Tax rate (%)
a. Incomes from capital investment	5
b. Incomes from copyright, commercial franchising	5
c. Incomes from prizes	10
d. Incomes from inheritances, gifts	10
e. Incomes from capital transfer specified in Clause 1, Article 13 of this Law	20

Taxed incomes	Tax rate (%)
Incomes from securities transfer specified in Clause 2, Article 13 of this Law	0.1
f. Incomes from real estate transfer specified in Clause 1, Article 14 of this Law	25
Incomes from real estate transfer specified in Clause 2, Article 14 of this Law	2

Article 24. Responsibilities of income-paying organizations and individuals and responsibilities of resident taxpayers

1. Responsibility to make tax declaration, withholding, payment and finalization is specified as follows:

a. Income-paying organizations and individuals shall make tax declaration, withhold and remit tax into the state budget, and make tax finalization for all kinds of taxable income they pay to taxpayers;

b. Individuals who have taxable incomes shall make tax declaration, pay tax into the state budget and make tax finalization for all their incomes in accordance with the law on tax administration.

2. Income-paying organizations and individuals shall supply information on incomes and dependants of taxpayers under their management in accordance with law.

3. The Government shall specify tax withholding rates suitable to each kind of income specified at Point a, Clause 1 of this Article.

Chapter III

TAX BASES FOR NON-RESIDENTS

Article 25. Tax on incomes from business

1. Tax on incomes from business of a non-resident is determined to be equal to his/her turnover from production or business activities specified in Clause 2 of this Article multiplied by the tax rate specified in Clause 3 of this Article.

2. Turnover is the total sum of money derived from the provision of goods or services, including also expenses paid by the goods or service buyer on behalf of the non-resident but not refunded to the goods or service buyer. If a contract between the goods or service provider and buyer does not specify personal income tax, the taxable turnover that must be converted is the total sum of money in any form earned by the non-resident from the provision of goods or services in Vietnam, regardless of places where business activities are conducted.

3. Tax rates applicable to incomes from business are specified for different production sectors or business lines as follows:

- a. 1% for goods trading;
- b. 5% for service provision;
- c. 2% for production, construction, transportation and other business activities.

Article 26. Tax on incomes from salaries or wages

1. Tax on income from salary or wage of a non-resident is determined to be equal to his/her income from salary or wage specified in Clause 2 of this Article multiplied by the tax rate of 20%.
2. Taxable income from salary or wage of a non-resident is the total of salary or wage amounts received by a non-resident for job performance in Vietnam, regardless of income payers.

Article 27. Tax on incomes from capital investment

Tax on income from capital investment of a non-resident is determined to be equal to the total sum of money earned by a non-resident from his/her capital investment in organizations or other individuals in Vietnam, multiplied by the tax rate of 5%.

Article 28. Tax on incomes from capital transfer

Tax on income from capital transfer of a non-resident is determined to be equal to the total sum of money earned by a non-resident from the transfer of his/her capital portions in Vietnamese organizations or individuals, multiplied by the tax rate of 0.1%, regardless of whether the transfer is made in Vietnam or abroad.

Article 29. Tax on incomes from real estate transfer

Tax on income from real estate transfer in Vietnam of a non-resident is determined to be equal to the real estate transfer price multiplied by the tax rate of 2%.

Article 30. Tax on incomes from copyright or franchising

1. Tax on income from copyright of a non-resident is determined to be equal to the income in excess of VND 10 million earned from each contract on assignment or licensing of an intellectual property object or technology transfer in Vietnam, multiplied by the tax rate of 5%.
2. Tax on income from commercial franchising of a non-resident is determined to be equal to the income in excess of VND 10 million earned from each contract on commercial franchising in Vietnam, multiplied by the tax rate of 5%.

Article 31. Tax on incomes from won prizes, inheritances or gifts

1. Tax on income from won prize, inheritance or gift of a non-resident is determined to be equal to his/her taxable income specified in Clause 2 of this Article multiplied by the tax rate of 10%.
2. Taxable income from won prize of a non-resident is the prize value in excess of VND 10 million upon each time of winning in Vietnam; taxable income from inheritance or gift is the inheritance or gift value in excess of VND 10 million upon each time of income receipt by a non-resident in Vietnam.

Article 32. Time of determination of taxable income

1. Time of determination of taxable income with respect to incomes specified in Article 25 of this Law is the time when a non-resident earns an income or a goods sale or service provision invoice is issued.
2. Time of determination of taxable income with respect to incomes specified in Articles 26, 27, 30 and 31 of this Law is the time when an organization or individual in Vietnam pays an income to a non-resident or when a non-resident receives an income from an overseas organization or individual.
3. Time of determination of taxable income with respect to incomes specified in Articles 28 and 29 of this Law is the time when a transfer contract becomes effective.

Article 33. Responsibilities of income-paying organizations and individuals and responsibilities of non-resident taxpayers

1. Income-paying organizations and individuals shall withhold and remit tax into the state budget upon each time of payment of taxable incomes to taxpayers.
2. Non-resident taxpayers shall make tax declaration and payment upon each time of generation of taxable income in accordance with the law on tax administration.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 34. Effect

1. This Law takes effect on January 1, 2009.
2. To annul the following documents and regulations:
 - a. Ordinance No. 35/2001/PL-UBTVQH10 on Income Tax on High-Income Earners, which had a number of articles amended and supplemented by Ordinance No. 14/2004/PL-UBTVQH11;

- b. The June 22, 1994 Law on Land Use Rights Transfer Tax, which had a number of articles amended and supplemented by Law No. 17/1999/QH10;
 - c. Provisions of Enterprise Income Tax Law No. 09/2003/QH11 on enterprise income tax applicable to individuals engaged in production or business activities, excluding private enterprises;
 - d. Other regulations on personal income tax which are contrary to the provisions of this Law.
3. Individuals having incomes eligible for tax incentives provided for in legal documents promulgated before the effective date of this Law continue enjoying those incentives.

Article 35. Implementation guidance

The Government shall detail and guide the implementation of this Law. This Law was passed on November 21, 2007, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 2nd session.

LAW ON VALUE-ADDED TAX (No. 13/2008/QH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Value-Added Tax.

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

This Law provides for objects subject and not subject to value-added tax, taxpayers, tax bases, tax calculation methods, and tax credit and refund.

Article 2.- Value-added tax

Value-added tax is a tax imposed on the added value of goods or services arising in the process from production, circulation to consumption.

Article 3.- Taxable objects

Goods and services used for production, trading or consumption in Vietnam are subject to value-added tax, except those specified in Article 5 of this Law.

Article 4.- Taxpayers

Taxpayers include organizations and individuals producing or trading in goods or services subject to

value-added tax (below referred to as business establishments) and organizations and individuals importing goods subject to value-added tax (below referred to as importers).

Article 5.- Non-taxable objects

1. Cultivation and husbandry products, and reared and fished aquatic products which have not yet been processed into other products or have been just preliminarily processed and sold by producing and fishing organizations and individuals, and products at the stage of importation.
2. Products which are animal breeds and plant varieties, including breeding eggs, breeding animals, seedlings, seeds, sperms, embryos and genetic materials.
3. Irrigation and drainage; soil ploughing and harrowing; dredging of intra-field canals and ditches for agricultural production; services of harvesting farm produce.
4. Salt products made of seawater, natural rock salt, refined salt and iodized salt.
5. State-owned residential houses sold by the State to current tenants.
6. Transfer of land use rights;
7. Life insurance, student insurance, insurance on domestic animals, insurance on plants and reinsurance.
8. Credit provision services; securities trading; capital transfer; derivative financial services, including interest-rate swap contracts, forward contracts, futures contracts, call or put options, foreign currency sales, and other derivative financial services as prescribed by law.
9. Healthcare and animal health services, including medical examination and treatment and preventive services for humans and domestic animals.
10. Public post and telecommunications and universal Internet services under the Government's programs.
11. Public services on sanitation and water drainage in streets and residential areas; maintenance of zoos, flower gardens, parks, street greeneries and public lighting; funeral services;
12. Renovation, repair and construction of cultural, artistic, public service and infrastructure works and residential houses for social policy beneficiaries, which are funded with people's contributions or humanitarian aid.
13. Teaching and vocational training as provided for by law.
14. State budget-funded radio and television broadcasting.
15. Publication, import and distribution of newspapers, journals, specialized bulletins, political

books, textbooks, teaching materials, law books, scientific-technical books, books printed in ethnic minority languages as well as propaganda postcards, pictures and posters, including those in the form of audio or visual tapes or discs or electronic data; money printing.

16. Mass transit by bus and tramcar.

17. Machinery, equipment and supplies which cannot be manufactured at home and need to be imported for direct use in scientific research and technological development activities; machinery, equipment, spare parts, special-purpose means of transport and supplies which cannot be manufactured at home and need to be imported for prospecting, exploring and developing oil and gas fields; aircraft, drilling platforms and ships which cannot be manufactured at home and need to be imported for the formation of enterprises' fixed assets or which are hired from foreign parties for production and business activities or for lease.

18. Special-purpose weapons and military equipment for security and defense purposes.

19. Goods imported as humanitarian aid or non-refundable aid; gifts for state agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations or people's armed forces units; donations or gifts for Vietnam-based individuals within the Government-prescribed quotas; belongings of foreign organizations and individuals within diplomatic immunity quotas; and personal effects within duty-free luggage quotas. Goods and services sold to foreign organizations or individuals or international organizations for use as humanitarian aid, and non-refundable aid to Vietnam.

20. Goods transferred out of border gate or transited via the Vietnamese territory; goods temporarily imported for re-export; goods temporarily exported for re-import; raw materials imported for the production or processing of goods for export under contracts signed with foreign parties; goods and services traded between foreign countries and non-tariff areas and between non-tariff areas.

21. Technology transfer under the Law on Technology Transfer; transfer of intellectual property rights under the Law on Intellectual Property; computer software.

22. Gold imported in the form of bars or ingots which have not yet been processed into fine-art articles, jewelries or other products.

23. Exported products which are unprocessed mined resources or minerals as prescribed by the Government.

24. Artificial products used for the substitution of diseased people's organs; crutches, wheelchairs and other tools used exclusively for the disabled.

25. Goods and services of business individuals who have a monthly income lower than the common minimum salary level applicable to domestic organizations and enterprises.

Establishments trading in non-taxable goods or services specified in this Article are not entitled to input value-added tax credit or refund, except the cases subject to the tax rate of 0% specified in Clause 1, Article 8 of this Law.

Chapter II

TAX BASES AND TAX CALCULATION METHODS

Article 6.- Tax bases

Value-added tax bases include taxable price and tax rate.

Article 7.- Taxable price

1. The taxable price is specified as follows:

a. For goods and services sold by business establishments, the taxable price is the selling price exclusive of value-added tax. For excise tax-liable goods and services, the taxable price is the selling price inclusive of excise tax but exclusive of value-added tax;

b. For imported goods, the taxable price is the border-gate import price plus import tax (if any) and excise tax (if any). The border-gate import price shall be determined under regulations on prices for calculating import tax;

c. For goods and services used for barter, internal consumption or donation, the taxable price is the price for calculating value-added tax on goods and services of the same or equivalent kinds at the time of barter, consumption or donation;

d. For asset lease, the taxable price is the rent exclusive of value-added tax; In case of asset lease for which rents are paid periodically or in advance for a certain lease duration, the taxable price is the rent paid periodically or in advance, exclusive of value-added tax; In case of hiring foreign machinery, equipment or means of transport which cannot be manufactured at home for sublease, the taxable price excludes the rent payable to the foreign party;

e. For goods sold by mode of installment or deferred payment, the taxable price is the lump-sum selling price of such goods, exclusive of value-added tax, excluding the interest on installment or deferred payment;

- f. For goods processing, the taxable price is the processing remuneration exclusive of value-added tax;
- g. For construction and installation activities, the taxable price is the value of the handed-over work, work item or job, exclusive of value-added tax. If construction or installation activities do not cover materials, machinery or equipment, the taxable price is the construction or installation value, excluding the value of materials, machinery or equipment;
- h. For real estate trading, the taxable price is the real estate-selling price exclusive of value-added tax, excluding the charge for transferring land use rights or the land rent remittable into the state budget;
- i. For commission-enjoying goods or service trading agency and brokerage, the taxable price is the commission on these activities, exclusive of value-added tax;
- j. For goods and services for which payment documents indicating payment prices inclusive of value-added tax are used, the taxable price is determined according to the following formula:

$$\begin{array}{l} \text{Price} \\ \text{exclusive of} \\ \text{value-added tax} \end{array} = \frac{\text{Payment price}}{1 + \text{goods or service tax rate (\%)}}$$

2. Taxable prices of goods and services specified in Clause 1 of this Article include surcharges and additional charges to be enjoyed by business establishments.
3. Taxable prices are determined in Vietnam dong. In case taxpayers have foreign currency turnover, such turnover must be converted into Vietnam dong at the average exchange rate on the inter-bank foreign currency market, announced by the State Bank of Vietnam at the time turnover is generated, for the determination of taxable prices.

Article 8.- Tax rates

1. The tax rate of 0% applies to exported goods and services, international transportation and goods and services not liable to value-added tax specified in Article 5 of this Law upon exportation, except cases of transfer of technologies or intellectual property rights abroad; offshore reinsurance services; credit provision, capital transfer and derivative financial services; post and telecommunications services; and exported products which are unprocessed mined resources and minerals specified in Clause 23, Article 5 of this Law.
2. The tax rate of 5% applies to the following goods and services:

- a. Clean water for production and daily life;
- b. Fertilizers; ores for fertilizer production; insecticides, pesticides and plant and animal growth stimulators;
- c. Feeds for cattle, poultry and other domestic animals;
- d. Services of digging, embanking and dredging canals, ditches, ponds and lakes for agricultural production; growing, tending, and preventing pests and insects for, plants; preliminary processing and preservation of agricultural products;
- e. Unprocessed cultivation, husbandry and fishery products, except products specified in Clause 1, Article 5 of this Law;
- f. Preliminarily processed rubber latex; preliminarily processed turpentine; nets, main ropes and fibers for making fishing-nets;
- g. Fresh and live food; unprocessed forest products, except timber, bamboo shoots and products specified in Clause 1, Article 5 of this Law;
- h. Sugar; by-products in sugar production, including molasses, bagasse and sludge;
- i. Products made of jute, rush, bamboo, leaf, straw, coconut husks and shells and Eichhornia crassipes, and other handicrafts made of agricultural raw materials; preliminarily processed cotton; paper for newspaper printing;
- j. Special-purpose machinery and equipment for agricultural production, including ploughing machines, harrowing machines, rice-planting machines, seeding machines, rice-plucking machines, reaping machines, combine harvesters, agricultural product harvesters, insecticide or pesticide pumps or sprayers;
- k. Medical equipment and instruments; medical cotton and bandage; preventive and curative medicines; pharmaco-chemistry products and pharmaceuticals used as raw materials for the production of curative and preventive medicines;
- l. Teaching and learning aids, including models, figures, boards, chalk, rulers, compasses, and equipment and tools exclusively used for teaching, research and scientific experiments;
- m. Cultural, exhibition, physical training and sports activities; art performances; film production; film import, distribution and screening;
- n. Children toys; books of all kinds, except books specified in Clause 15, Article 5 of this Law;
- o. Scientific and technological services under the Law on Science and Technology.

3. The tax rate of 10% applies to goods and services not listed in Clauses 1 and 2 of this Article.

Article 9.- Tax calculation methods

Value-added tax calculation methods include value-added tax credit method and method of calculation of tax based directly on added value.

Article 10.- Tax credit method

1. The value-added tax credit method is specified as follows:

- a. The payable value-added tax amount according to the tax credit method is the output value-added tax amount minus the creditable input value-added tax amount;
- b. The output value-added tax amount is the total amount of value-added tax on sold goods and services indicated in the added-value invoice;
- c. The creditable input value-added tax amount is the total value-added tax amount indicated in the added-value invoice on goods or service purchase and the document proving the payment of value-added tax on imported goods, and must satisfy the conditions specified in Article 12 of this Law.

2. The tax credit method applies to business establishments which fully observe regulations on accounting, invoices and documents as prescribed by the law on accounting, invoices and documents, and register to pay tax according to the tax credit method.

Article 11.- Method of calculation of tax based directly on added value

1. The method of calculation of tax based directly on added value is specified as follows:

- a. The payable value-added tax amount according to the method of calculation of tax based directly on added value is the added value of sold goods or services multiplied by the value-added tax rate;
- b. The added value is the selling price of goods or services minus the purchase price of such goods or services.

2. The method of calculation of tax based directly on added value applies to the following cases:

- a. Business establishments and foreign business organizations and individuals without Vietnam-based resident establishments but having incomes generated in Vietnam that fail to fully observe regulations on accounting, invoices and documents;
- b. Gold, silver and gem trading activities.

Chapter III

TAX CREDIT AND REFUND

Article 12.- Input value-added tax credit

1. Business establishments which pay value-added tax according to the tax credit method are entitled to input value-added tax credit as follows:

a. Input value-added tax on goods or services used for the production or trading of goods or services subject to value-added tax may be wholly credited;

b. For goods or services used for the production and trading of goods or services both subject and not subject to value-added tax, only the amount of input value-added tax on goods or services used for the production and trading of goods or services subject to value-added tax is creditable.

The input value-added tax on fixed assets used for the production and trading of goods or services both subject and not subject to value-added tax may be wholly credited;

c. The input value-added tax on goods or services sold to organizations or individuals that use humanitarian or non-refundable aid capital may be wholly credited;

d. The input value-added tax arising in a month shall be declared and credited upon the determination of the payable tax amount of that month. In case a business establishment detects errors in the declared or credited input value-added tax amount, additional declaration and credit may be conducted; the maximum time limit for additional declaration and credit is 6 months from the time of detecting errors.

2. Conditions on a business establishment to be entitled to input value-added tax credit are specified as follows:

a. Having an added-value invoice on goods or service purchase or a document proving the payment of value-added tax at the stage of importation;

b. Having a via-bank payment document of purchased goods or services, except goods or services valued at under twenty million Vietnam dong upon each time of purchase;

c. For exported goods and services, apart from the conditions specified at Points a and b of this Clause, the business establishment must also have a contract signed with a foreign party on goods sale or processing or service provision, a goods or service sale invoice, a via-bank payment document and a customs declaration. Payment for exported goods or services by clearing

between exported goods or services and imported goods or services or paying debts on behalf of the State is regarded as via-bank payment.

Article 13.- Cases eligible for tax refund

1. Business establishments which pay value-added tax according to the tax credit method are entitled to value-added tax refund if, for three or more consecutive months, they have some input value-added tax amount not yet fully credited. Business establishments having registered to pay value-added tax according to the tax credit method are entitled to tax refund if they have new investment projects and some amount of value-added tax on purchased goods or services used for investment not yet fully credited and the remaining tax amount of two hundred million Vietnam dong or more
2. Business establishments which export goods or services in a month are entitled to value-added tax refund on a monthly basis if they have a non-credited input value-added tax amount of two hundred million Vietnam dong or more.
3. Business establishments which pay value-added tax according to the tax credit method are entitled to value-added tax refund if upon ownership transformation, enterprise transformation, merger, consolidation, separation, split, dissolution, bankruptcy or operation termination, they have an overpaid value-added tax amount or have some input value-added tax amount not yet fully credited.
4. Business establishments possessing value-added tax refund decisions issued by competent agencies as provided for by law, and cases eligible for value-added tax refund under treaties to which the Socialist Republic of Vietnam is a contracting party.

Article 14.- Invoices and documents

1. Goods and service purchase and sale must be accompanied by invoices and documents according to law and the following regulations:
 - a. Business establishments which pay value-added tax according to the tax credit method shall use added-value invoices; such an invoice must be filled in fully and properly, displaying all surcharges and additional charges (if any). In case value-added tax-subject goods or services are sold with added-value invoices that do not indicate value-added tax amounts, the output value-added tax shall be determined to be the payment price indicated in the invoice multiplied by the value-added tax rate, except cases specified in Clause 2 of this Article;

b. Business establishments which pay tax according to the method of calculation of tax based directly on added value shall use sale invoices.

2. For stamps and tickets which are payment documents pre-printed with payment prices, those prices are inclusive of value-added tax.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 15.- Implementation effect

1. This Law takes effect on January 1, 2009.
2. This Law replaces the following laws:
 - a. The 1997 Law on Value-Added Tax;
 - b. Law No. 07/2003/QH11 Amending and Supplementing a Number of Articles of the Law on Value-Added Tax;
3. To annul Article 2 of Law No. 57/2005/QH11 Amending and Supplementing a Number of Articles of the Law on Excise Tax and the Law on Value-Added Tax.

Article 16.- Implementation guidance

The Government shall detail and guide the implementation of Articles 5, 7, 8, 12 and 13 and other necessary contents of this Law to meet management requirements. This Law was passed on June 3, 2008, by the XIIth National Assembly of the Socialist Republic of Vietnam at its third session.

LAW ON IMPORT TAX AND EXPORT TAX

(No. 45/2005/QH11 of June 14, 2005)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session; This Law provides for import tax and export tax.

Chapter I

GENERAL PROVISIONS

Article 1.- Governing scope

This Law provides for import tax and export tax applicable to goods imported or exported through Vietnam's border-gates or borders; goods sold, purchased or exchanged by border

residents and other sold, purchased or exchanged goods, which are considered import or export goods.

Article 2.-Tax-liable objects

Except for goods defined in Article 3 of this Law, goods in the following cases shall be liable to import tax or export tax:

1. Goods imported or exported through Vietnam's border-gates or borders;
2. Goods brought from the domestic market into non-tariff zones or from non-tariff zones into the domestic market.

Article 3.- Objects not liable to tax Goods in the following cases shall not be liable to import tax or export tax:

1. Goods in transit or being transported across Vietnam's border-gates or borders; goods transferred through border-gates as provided for by the Government;
2. Humanitarian aid, non-refundable aid;
3. Goods exported from non-tariff zones to foreign countries, goods imported from foreign countries into non-tariff zones for use in non-tariff zones only, and goods transported from one non-tariff zone to another;
4. Goods being petroleum portions paid to the State in value as natural resource tax when exported.

Article 4.- Taxpayers

Organizations and individuals that have import or export goods being tax-liable objects defined in Article 2 of this Law are payers of import tax or export tax.

Article 5.- Interpretation of terms In this Law, the following phrases shall be construed as follows:

1. Non-tariff zones mean economic areas lying within the Vietnamese territory which are determined by geographical boundaries and set up under decisions of the Prime Minister; the goods sale, purchase and exchange between these zones and outside areas constitute import and export relations.
2. Taxation safeguard measures mean measures to be applied to goods of a certain kind excessively imported into Vietnam in order to prevent or limit material injury to a domestic manufacturing industry.

3. Excessive import of goods means the import of goods with a volume, quantity or value increasing unexpectedly in absolute or relative quantity against the volume, quantity or value of similar or directly competitive home-made goods.

4. Absolute tax means tax fixed in a certain money amount on a unit of import or export goods.

5. Movable assets mean appliances and belongings in service of daily-life and working activities brought along by individuals, families or organizations when they stop residing or operating in Vietnam or foreign countries.

6. Goods sold, purchased or exchanged by border residents mean goods in service of production and daily-life activities of border residents.

Article 6.- Application of treaties In cases where treaties to which the Socialist Republic of Vietnam is a contracting party contain provisions on import tax and export tax different from those of this Law, the provisions of such treaties shall apply.

Article 7.- Tax on goods sold, purchased or exchanged by border residents

The Government shall, based on the provisions of this Law, provide for the imposition of import tax or export tax on goods sold, purchased or exchanged by border residents, suitable to each period.

Chapter II

TAX CALCULATION BASES AND TARIFF

Article 8.- Tax calculation bases, tax calculation methods and tax payment currencies

1. The bases for calculating import tax and export tax are the unit volume of each actually imported or exported goods item, inscribed in the customs declarations, tax calculation prices, and tax rates in percentage (%); for goods items subject to absolute tax, the tax calculation bases are the unit volume of each actually imported or exported goods item inscribed in the customs declarations, and the absolute tax rate provided for a goods unit.

2. Tax calculation methods are specified as follows:

a. The payable import tax or export tax amount shall be equal to the unit volume of each actually imported or exported goods item inscribed in the customs declarations multiplied by the tax calculation price and the tax rate of each item stated in the Tariff at the time of tax calculation;

b. For goods items subject to absolute tax, the payable import tax or export tax amount shall be equal to the unit volume of each actually imported or exported goods item inscribed in the

customs declarations multiplied by the absolute tax rate provided for a goods unit at the time of tax calculation.

3. The tax payment currency is the Vietnamese dong; in cases where it is permitted to pay tax in foreign currencies, tax must be paid in freely convertible currencies.

Article 9.- Tax calculation prices and tax calculation exchange rates

1. For export goods, the tax calculation prices are the contractual sale prices at the exporting border-gates.

2. For import goods, the tax calculation prices are the actually paid prices at the first importing border-gate under contracts, in conformity with international commitments.

3. The exchange rates between Vietnam dong and foreign currencies used for determination of tax calculation prices are the exchange rates announced by the State Bank of Vietnam at the time of tax calculation. The Government shall specify the determination of tax calculation prices provided for in this Article.

Article 10.- Tax rates

1. Tax rates applicable to export goods shall be specified for each goods item in the Export Tariff.

2. Tax rates applicable to import goods include preferential tax rates, special preferential tax rates and ordinary tax rates:

a. The preferential tax rates shall apply to import goods originating from countries, groups of countries or territories, which apply the most favored nation treatment in their trade relations with Vietnam;

b. The special preferential tax rates shall apply to import goods originating from countries, groups of countries or territories, which apply special preferences on import tax to Vietnam;

c. The ordinary tax rates shall apply to import goods originating from countries, groups of countries or territories, which do not apply the most favored nation treatment or special preferences on import tax to Vietnam. The ordinary tax rates shall not be 70% higher than the preferential tax rates of the same goods items specified by the Government.

Article 11.- Taxation safeguard measures, anti-dumping, anti-subsidy and anti-discrimination in the import of goods Apart from being subject to tax according to the provisions of Clause 2, Article 10 of this Law, import goods shall also be subject to one of the following taxation measures:

1. Raising the import tax rates, for goods excessively imported into Vietnam according to the provisions of law on safeguard in the import of foreign goods into Vietnam;
2. The anti-dumping tax, for imports dumped into Vietnam according to the provisions of law on anti-dumping of imports into Vietnam;
3. The anti-subsidy tax, for subsidized goods imported into Vietnam according to the provisions of law on anti-subsidy for imports into Vietnam;
4. The anti-discrimination tax, for goods imported into Vietnam from countries, groups of countries or territories, which practice discrimination with regard to import tax or apply other discriminatory measures, according to the provisions of law on the most favored nation treatment and the national treatment in international trade.

Article 12.- Competence to promulgate tariffs and tax rates

1. The Government shall propose the National Assembly Standing Committee to promulgate the Export Tariff according to the list of tax-liable commodity groups and tax rate bracket for each commodity group, the Preferential Import Tariff according to the list of tax-liable commodity groups and preferential tax rate bracket for each commodity group; provide for taxation safeguard measures, anti-dumping tax, anti-subsidy tax and anti-discrimination tax. The Prime Minister shall decide on goods items subject to the absolute tax and the absolute tax rates in case of necessity.
2. Based on the Export Tariff according to the list of tax-liable commodity groups and tax rate bracket for each commodity group and the Preferential Import Tariff according to the list of tax-liable commodity groups and preferential tax rate bracket for each commodity group, promulgated by the National Assembly Standing Committee, the Minister of Finance shall provide the export tax rate, the import tax rate for each goods item according to procedures prescribed by the Government, ensuring the following principles:
 - a. Being compatible with the list of tax-liable commodity groups and within the tax rate brackets promulgated by the National Assembly Standing Committee;
 - b. Contributing to ensuring State budget revenues and stabilizing the market;
 - c. Protecting the domestic production in a selective and conditional manner for a certain period of time in conformity with treaties to which the Socialist Republic of Vietnam is a contracting party.

Chapter III

TAX DECLARATION AND PAYMENT

Article 13.- Responsibilities of taxpayers

Payers of import or export tax shall have to fully, accurately and transparently declare tax and bear responsibility before law for their declaration contents, submit customs declarations to customs offices, and calculate and pay tax into the State budget.

Article 14.- Tax calculation time

The time for calculating import tax and export tax shall be the time when taxpayers register customs declarations with customs offices. Import tax and export tax shall be calculated according to tax rates, tax calculation prices and exchange rates used for tax calculation according to the exchange rates announced by the State Bank of Vietnam at the time of tax calculation.

Article 15.- Time limits for tax payment

1. Time limits for payment of import tax and export tax are provided for as follows:

- a. For export goods, it is thirty days as from the date the taxpayers register customs declarations;
- b. For import goods being consumer goods, the import tax must be fully paid before the receipt of goods; in cases where the payable tax amounts are guaranteed, the time limit for tax payment shall be the guarantee duration, which, however, must not exceed 30 days as from the date the taxpayers register customs declarations. Responsibilities of guaranteeing organizations shall comply with the provisions of Point b, Clause 2 of this Article.
- c. For import goods being supplies and raw materials for the production of export goods, the time limit for tax payment shall be two hundred and seventy five days as from the date the taxpayers register customs declarations; in special cases, the time limit for tax payment may be longer than two hundred and seventy five days to suit the production cycle as well as supply and raw material reserves of enterprises as provided for by the Government;
- d. For goods temporarily imported for re-export or temporarily exported for re-import, the time limit for tax payment shall be fifteen days as from the deadline for temporary import for re-export or temporary export for re-import, as provided for by competent State agencies;
- e. Apart from the cases defined at Point c and Point d, Clause 1 of this Article, the time limit for tax payment for import goods shall be thirty days as from the date the taxpayers register customs declarations.

2. Taxpayers who meet one of the following two conditions shall be entitled to apply the tax payment time limits defined at Points c, d and e, Clause 1 of this Article:

- a. Having conducted import or export activities for at least three hundred and sixty five days, counting to the date of registration of customs declarations, being certified by customs offices as having neither committed acts of trade frauds or tax evasion nor owed overdue tax or fine debts, and having well observed the financial reporting regimes provided for by law;
- b. Having their payable tax amounts guaranteed by credit institutions or other organizations operating under the Law on Credit Institutions. In cases where these amounts are guaranteed, the time limits for tax payment shall comply with the guarantee duration, which, however, must not exceed the time limits defined at Points c, d and e, Clause 1 of this Article. Past the guarantee duration or tax payment time limits, if taxpayers still fail to pay tax, the guaranteeing organizations shall have to pay tax amounts and fines for delayed payment on behalf of taxpayers. In cases where taxpayers fail to meet the conditions provided for in this Clause, they must fully pay tax before receiving goods.

Chapter IV

TAX EXEMPTION, REDUCTION AND REIMBURSEMENT

AND

COLLECTION OF TAX ARREARS

Article 16.- Tax exemption

Import goods or export goods shall be exempt from import tax or export tax in the following cases:

1. Goods temporarily imported for re-export or temporarily exported for re-import for participation in exhibitions, trade fairs or goods display; machinery, equipment and working devices temporarily imported for re-export or temporarily exported for re-import in service of work within a certain period of time;
2. Goods being movable assets according to the Government's regulations;
3. Import and export goods of Vietnam-based foreign organizations or individuals entitled to diplomatic privileges or immunities within the norms prescribed by the Government in accordance with treaties to which the Socialist Republic of Vietnam is a contracting party;

4. Goods imported for processing for foreign partners then exported or goods exported to foreign countries for processing for Vietnam then re-imported under processing contracts;
5. Import and export goods within the duty-free luggage quotas of persons on entry or exit under the Government's regulations;
6. Goods imported to create fixed assets of projects entitled to investment incentives or investment projects funded with official development assistance (ODA) capital sources, including:
 - a. Equipment and machinery;
 - b. Special-use means of transport included in technological chains and means of transport used for transporting workers;
 - c. Components, details, parts, spare parts, fittings, moulds and accessories accompanying machinery, equipment and special-use means of transport defined at Points a and b of this Clause;
 - d. Raw materials and supplies used for manufacture of equipment and machinery included in technological chains or for manufacture of components, details, parts, spare parts, fittings, moulds and accessories accompanying equipment and machinery defined at Point a of this Clause;
 - e. Building materials which cannot be produced at home;
 - f. Goods being equipment and devices imported for the first time according to a list prescribed by the Government for investment projects on hotels, office buildings, apartments for rent, dwelling houses, trade and technical service centers, department stores, golf courses, tourist resorts, sport centers, recreation and entertainment sites, medical examination and treatment, training, cultural, financial, banking, insurance, audit, and consultancy service establishments. The exemption of import tax for import goods defined at Points a, b, c, d and e of this Clause shall also apply to cases of expanding the scale of projects or replacing or renewing technologies.
7. Goods imported in service of petroleum activities, including:
 - a. Equipment, machinery, spare parts and special-use means of transport necessary for petroleum activities;
 - b. Supplies necessary for petroleum activities, which cannot be produced at home;
8. Goods imported for direct use in activities of scientific research and technological development, including machinery, equipment, spare parts, supplies and means of transport, which cannot be produced at home, technologies which cannot be created at home; scientific documents, books and newspapers;

9. Raw materials, supplies and accessories imported for production activities of investment projects on the list of domains where investment is particularly encouraged or the list of geographical areas meeting with exceptional socio-economic difficulties shall be exempt from import tax for five years after the commencement of production;

10. Goods produced, processed, re-cycled or assembled in non-tariff zones without the use of raw materials and accessories imported from foreign countries, when being imported into the domestic market; for cases of using raw materials and accessories imported from foreign countries, when goods are imported into the domestic market, only import tax on imported raw materials and supplies constituting these goods must be paid;

11. Other specific cases decided by the Prime Minister.

Article 17.- Consideration for tax exemption Import or export goods in the following cases shall be considered for exemption of import tax or export tax:

1. Special-use goods imported in direct service of national defense, security, or education and training; special-use goods imported in direct service of scientific research, except for the cases defined in Clause 8, Article 16 of this Law;

2. Goods being gifts, presents or samples of foreign organizations or individuals for Vietnamese organizations or individuals within the norms prescribed by the Government.

Article 18.- Tax reduction

Import or export goods which are damaged or lost while being under customs offices' supervision, with certification by competent expertise agencies or organizations, shall be eligible for tax reduction. The levels of tax reduction shall correspond to the actual loss or damage of goods.

Article 19.- Tax reimbursement

1. Taxpayers shall have their paid tax amounts reimbursed in the following cases:

a. Import goods being in warehouses or storing yards at the border-gates under customs offices' supervision, for which import tax has already been paid, are re-exported;

b. Import or export goods, for which import tax or export tax has been paid, are not imported or exported;

c. Goods, for which import tax or export tax has been paid, are actually imported or exported in a smaller quantity;

- d. Goods being raw materials or supplies imported for the production of export goods, for which import tax has been paid;
- e. Goods temporarily imported for re-export or temporarily exported for re-import, for which import tax or export tax has been paid, except for cases eligible for tax exemption defined in Clause 1, Article 16 of this Law;
- f. Export goods, for which export tax has been paid, are to be re-imported;
- g. Import goods, for which import tax has been paid, are to be re-exported;
- h. Import goods being machinery, equipment, devices, and means of transport of organizations and/or individuals, which are permitted to be temporarily imported for re-export for the execution of investment projects, work construction and installation, in service of production or for other purposes, for which import tax has been paid.

2. In cases where there are mistakes in tax declaration and calculation, the overpaid tax amount shall be refunded, provided that these mistakes are made within three hundred and sixty five days backwards, counting from the date of detecting the mistakes.

Article 20.- Responsibility and time limit for tax reimbursement

1. Within fifteen days after receiving complete dossiers of application for tax reimbursement, the State agencies competent to consider tax reimbursement shall have to effect tax reimbursement to subjects eligible there for; in cases where the dossiers are incomplete or invalid as required by law for tax reimbursement, within five working days after receiving the dossiers of application for tax reimbursement of subjects eligible there for, the State agencies competent to consider tax reimbursement shall have to issue written requests for supplementation of the dossiers.

2. Past the time limit defined in Clause 1 of this Article, if the tax reimbursement is delayed due to the faults of the State agencies competent to consider tax reimbursement, apart from the to-be-reimbursed tax amounts, the interests thereon must also be paid for the overdue period at the lending interest rates of commercial banks at the time of tax reimbursement.

Article 21.- Collection of tax arrears

Taxpayers who have their goods eligible for tax exemption or consideration for tax exemption as defined in Article 16 and Article 17 of this Law, but later use such goods for purposes other than those eligible for tax exemption or consideration for tax exemption, shall have to fully pay tax.

Chapter V

COMPLAINTS AND HANDLING OF VIOLATIONS

Article 22.- Complaints and settlement of complaints

In cases where taxpayers disagree with decisions of customs offices on the payable tax amounts, fine amounts and sanctioning forms, they still have to fully pay taxes and fines and abide by the sanctioning forms, and at the same time, may lodge their complaints with competent State agencies as provided for by the law on complaints and denunciations.

Article 23.- Handling of tax-related violations by taxpayers Tax payers that violate the provisions of this Law shall be handled as follows:

1. If they pay taxes or fines later than the payment deadline or the deadline inscribed in the decisions on handling of tax-related violations, they shall, apart from having to fully pay taxes on fines, have to pay a fine equal to 0.1% (zero point one percent) of the late paid amounts for each day of delayed payment; if the delayed payment prolongs for more than ninety days, they shall be coerced to pay them according to the provisions of Clause 4 of this Article;
2. If they fail to declare and pay taxes in strict accordance with the provisions of this Law, they shall, depending on the nature and seriousness of their violations, be administratively handled for tax-related violations;
3. If they falsely declare or evade taxes, they shall, apart from having to fully pay taxes according to the provisions of this Law, depending on the nature and seriousness of their violations, be subject to a fine equal to one or five times the evaded tax amounts;
4. If they fail to pay taxes or fines according to the decisions on handling of tax-related violations, they shall be forced to do so through the following measures:
 - a. Their deposits at banks, other credit institutions or State treasuries are deducted for payment of taxes or fines. Banks, other credit institutions or State treasuries shall have to make deductions from deposit accounts of taxpayers to pay taxes and fines to the State budget according to decisions of the customs offices or competent State agencies on handling of tax-related violations;
 - b. Customs offices where customs declarations are registered may temporarily seize goods or distraint property according to the provisions of law in order to ensure the full collection of deficit tax or fine amounts. Past thirty days after the customs offices issue decisions on the temporary seizure of goods or the distraint of property, if taxpayers still fail to fully pay taxes or fines, the

customs offices may auction such goods or property according to the provisions of law in order to ensure the full collection of taxes or fines;

c. Customs offices shall not carry out import procedures for the next goods shipment of taxpayers until they fully pay taxes or fines;

5. If detecting that there is a tax fraud or evasion, customs offices shall have to collect all tax and fine arrears incurred within five years back from the date of inspecting and detecting the tax fraud or tax evasion; in cases where there are tax-related mistakes, customs offices shall have to collect tax arrears or refund wrongly-calculated tax amounts within three hundred and sixty five days back from the date of inspecting and detecting such mistakes. Within sixty days as from the date of registering customs declarations, if taxpayers discover errors or mistakes by themselves and actively pay the deficit tax amounts into the State budget, they shall be exempt from sanctions;

6. Those who commit acts of tax evasion in large amounts or have been administratively sanctioned for tax evasion but still commit violations shall be examined for penal liability according the provisions of law.

Article 24.- Handling of violations committed by customs officers or other concerned individuals

1. Customs officers or other individuals who abuse their positions and/or powers to appropriate or embezzle tax money shall have to refund to the State the whole appropriated or embezzled amounts and, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability according to the provisions of law.

2. Customs officers who show sign of irresponsibility, deliberately act against regulations, cover up violators or commit other acts of violating the provisions of this Law shall, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to the provisions of law; if causing damage, they must pay compensation there for according to the provisions of law.

Chapter VI

ORGANIZATION OF IMPLEMENTATION

Article 25.- Competence and responsibility of the Government

The Government shall perform the uniform management over the collection of import tax and export tax, provide for the competence and procedures for tax exemption, consideration for tax exemption, tax reimbursement, collection of tax arrears and handling of tax-related violations

defined in Articles 16, 17, 18, 19, 20, 21 and 23 of this Law.

Article 26.- Responsibilities of the Minister of Finance and presidents of the provincial/municipal People's Committees

1. The Minister of Finance shall have to direct, organize and manage the collection of import tax and export tax on import and export goods.

2. The presidents of the provincial/municipal People's Committees shall have to direct the coordinated collection of import tax and export tax in their respective localities.

Article 27.- Responsibility of customs offices

Customs offices shall have to inspect and collect taxes according to the provisions of this Law and the Customs Law.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 28.- Implementation effect

1. This Law takes effect as from January 1, 2006.

2. To annul the 1991 Law on Import Tax and Export Tax, the 1993 Law Amending and Supplementing a Number of Articles of the Law on Import Tax and Export Tax, the 1998 Law Amending and Supplementing a Number of Articles of the Law on Import Tax and Export Tax; to annul provisions on import tax and export tax in Article 25 of the Law on Domestic Investment Promotion, Article 47 of the Law on Foreign Investment in Vietnam, Clause 2, Article 42 of the Law on Science and Technology, and Article 34 of the Petroleum Law.

3. Projects entitled to investment incentives, which have already been granted investment licenses or certificates of investment preferences with preferential import tax and/or export tax levels higher than the levels defined in this Law, shall continue enjoying those preferential levels; in cases where the investment licenses or certificates of investment preferences provide for preferential import tax or export tax levels lower than those provided for in the Law, the preferential levels provided for in this Law shall apply for the remaining preferential period of projects.

Article 29.- Detailing and guidance of implementation. The Government shall detail and guide the implementation of this Law. This Law was passed on June 14, 2005 by the XIth National Assembly of the Socialist Republic of Vietnam at its 7th session.

**LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF
THE SPECIAL CONSUMPTION TAX LAW AND
THE VALUE ADDED TAX LAW (No. 57/2005/QH11)**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session; This Law amends and supplements a numbers of articles of the May 20, 1998 Special Consumption Tax Law, which was amended and supplemented under the June 17, 2003 Law Amending and Supplementing a Number of Articles of the Special Consumption Tax Law, and the May 10, 1997 Value Added Tax Law, which was amended and supplemented under the June 17, 2003 Law Amending and Supplementing a Number of Articles of the Value Added Tax Law.

Article 1.- To amend and supplement a number of articles of the Special Consumption Tax Law

1. Clause 6 of Article 6 is amended and supplemented as follows: “Article 6.- Tax calculation prices 6. For liquors, beers, casino, jackpot games, and golf business, special consumption tax (SCT) calculation prices shall be specified by the Government. SCT calculation prices of goods and services provided for in this Article include also the additional charges collected by business establishments. Where taxpayers have purchase or sale turnovers in a foreign currency, they must convert such foreign-currency amounts into Vietnam dong at the exchange rates publicized by the Vietnam State Bank at the time of generation of such turnovers in order to determine tax calculation prices.”

2. Article 7 is amended and supplemented as follows: “Article 7.- Tax rates SCT rates of goods and services are specified in the Special Consumption Tariff below:

SPECIAL CONSUMPTION TARIFF

No.	Goods and services	Tax rate (%)
I	Goods	
1	Cigarettes, cigars	
	a. Cigars	65
	b. Cigarettes	
	- In 2006-2007	55
	- From 2008	65

No.	Goods and services	Tax rate (%)
2	Liquors	
	a. Liquors of 40% proof or higher	65
	b. Liquors of between 20% and under 40% proof	30
	c. Liquors of under 20% proof, fruit wines, medicated liquors	20
3	Beers	
	a. Bottled beer, canned beer	75
	b. Draught beer, fresh beer	
	- In 2006-2007	30
	- From 2008	40
4	Cars	
	a. Cars of 5 seats or less	50
	b. Cars of between 6 and 15 seats	30
	c. Cars of between 16 and under 24 seats	15
5	Gasoline of various kinds, naphtha, condensate, reformed components, and other components for mixing gasoline	10
6	Air conditioners of a capacity of 90,000 BTU or under	15
7	Playing cards	40
8	Votive gilt paper, votive objects	70
II	Services	
1	Dancing halls, massage parlors, karaoke bars	30
2	Casino, jackpot games	25
3	Entertainment with bet tickets	25
4	Golf business: sale of membership cards and golf playing tickets	10
5	Lottery business	15

3. Article 16 is amended and supplemented as follows: “Article 16.- Cases eligible for SCT reduction or exemption Establishments producing SCT-liable goods which meet with difficulties due to natural disaster, enemy sabotage or accident shall be considered for tax reduction or exemption. The Government shall specify tax reduction or exemption provided for in this Article.”

Article 2.- To amend and supplement a number of articles of the Value Added Tax Law

1. Clause 1 of Article 4 is amended and supplemented as follows: “Article 4.- Objects not liable to value added tax (VAT) The following goods and services shall not be liable to VAT:

1. Cultivation and husbandry products, cultured and fished aquatic and marine products, which have not yet been processed into other products or have just been preliminarily processed and sold by producing or fishing organizations or individuals, and at the stage of importation.”

2. Point j, Clause 2 of Article 8, which was amended into Point k, Clause 2 of Article 8 under the June 17, 2003 Law Amending and Supplementing a Number of Articles of the VAT Law, is amended and supplemented as follows:

“Article 8.- Tax rates

2. The tax rate of 5% shall apply to the following goods and services:

k. Preliminarily processed cotton;”

Article 3.- This Law takes effect as from January 1, 2006.

Article 4.- The Government shall detail and guide the implementation of this Law.

This Law was passed on November 29, 2005, by the XIth National Assembly of the Socialist Republic of Vietnam at its 8th session.

ประวัติผู้เขียน

ชื่อ	นางสาวสรันนุช	บุญวุฒิ
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	พ.ศ. 2535	สำเร็จการศึกษาประกาศนียบัตรวิชาชีพชั้นสูง โรงเรียนพณิชยการเชียงใหม่
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