

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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No. 83/2013/NĐ-CP

*Hanoi, July 22, 2013*

**DECREE**

**ON THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE LAW ON TAX  
ADMINISTRATION AND THE LAW ON AMENDMENTS TO THE LAW ON TAX  
ADMINISTRATION**

*Pursuant to the Law on Government organization dated December 25, 2001;*

*Pursuant to the Law on Tax administration dated November 29, 2006;*

*Pursuant to the Law No. 21/2012/QH13 dated November 20, 2012 on the amendments to the  
Law on Tax administration dated November 20, 2012;*

*At the request of the Minister of Finance;*

*The Government issues a Decree on the implementation of a number of articles of the Law on  
Tax administration and the Law on amendments to the Law on Tax administration,*

**Chapter 1.**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

This Decree elaborates the implementation of a number of articles of the Law on Tax administration and the Law on amendments to the Law on Tax administration, applicable to the management of taxes, fees, land rent, water surface rent, land levy; revenues from resource extraction, and other revenues classified as government revenues collected by tax authorities in accordance with law.

**Article 2. Taxpayers**

Taxpayers in this Decree include:

1. Organizations, households, and individuals that pay tax, fees, and other revenues classified as government revenues managed and collected by tax authorities in accordance with law.
2. The organizations assigned to collect fees classified as government revenues.
3. The organizations and individuals that deduct tax; the organizations and individuals that follow taxation procedures on behalf of taxpayers, including:
  - a) Vietnamese organizations and individuals that sign contracts with foreign organizations and individuals doing business in Vietnam that do not follow Vietnam's laws on investment and accounting regime;
  - b) The organizations and individuals that deduct tax when paying the people whose incomes incur personal income tax;

- c) Shipping agencies and agents of foreign shipping lines that deduct corporate income tax on transportation of goods by ship from Vietnam's ports to abroad or among Vietnam's ports;
- d) Providers of taxation services;
- dd) Customs brokerage agents for exported and imported goods;
- e) Organizations and individuals that provide postal services and express mail services to serve the payment of tax on behalf of the taxed organizations and individuals;
- g) The credit institutions that guarantee tax payment of taxed organizations and individuals in accordance with the Law on credit institutions.

### **Article 3. Delegating tax collection**

1. Tax authorities shall delegate other organizations and individuals to collect some taxes decided by the Ministry of Finance.
2. The delegation of tax collection must be made into a contract between the head of the tax authority and the delegated organization or individual, except for some cases in which the revenues are not regular as defined by the Ministry of Finance.
3. The party delegated to collect tax shall notify and urge the taxpayer to pay tax in accordance with the delegation contract, issue receipts to taxpayers when collecting tax, remit the tax collected to accounts of the tax authority at State Treasuries; report the amount of collected tax and issued receipts to the tax authority; send reports to the tax authority on new taxpayers or changes in the business lines or business scale of the local taxpayers.
4. The tax authority shall announce the delegation of tax collection for taxpayers to know, provide receipts, provide guidance, instruct and supervise the tax collection of the organizations and individuals delegated to collect tax.
5. The organizations and individuals delegated to collect shall be provided with funding deducted from the budget of the tax authority. The Ministry of Finance shall provide guidance on the deduction and use of funding mentioned in this Clause.

### **Article 4. Application of risk management to tax administration**

1. Application of risk management to tax administration of tax authorities
  - a) The Ministry of Finance shall;
    - Issue regulations on risk management for taxation to raise the efficiency of tax administration and prevent violations legislation on taxation;
    - Establish risk assessment criteria that meet the tax administration demand in each period.
  - b) Tax authorities shall;
    - Use information about taxpayers to build a database serving risk management for taxation;
    - Manage, apply information technology, information systems, and the database about taxpayers to assessment of risk to tax administration; assess the conformity with law of taxpayers to serve tax administration, identify and select subjects of tax inspection in accordance with law.
2. Application of risk management to tax administration of the customs
  - a) The Ministry of Finance shall:

- Issue regulations on risk management for customs;
- Establish risk assessment criteria that meet the tax administration demand in each period. Assess the conformity with law of taxpayers;

b) The General Department of Customs shall develop, manage and apply concentrated information systems related to taxpayer to serve risk assessment and:

- Inspect the conditions for registering tax declarations;
- Decide method of inspecting tax declarations;
- Decide the method and level of inspection of exported and imported goods;
- Identify and select subjects of post-customs clearance inspections and tax inspections in accordance with law;
- Assess the conformity with law of taxpayers.

c) The customs authorities shall adhere with regulations on risk management, criteria for assessing risk and conformity with law of taxpayers.

## **Chapter 2.**

### **SPECIFIC PROVISIONS**

#### **Article 5. Principles of calculating, declaring, and paying tax**

1. Taxpayers shall calculate the tax payable to the state budget, except for the cases in which tax authorities impose or calculate tax (in Article 37, Article 38, and Article 39 of the Law on Tax administration).

2. Taxpayers must provide accurate and truthful information in the tax form, submit all documents specified in the tax declaration to tax authorities.

If the taxpayer finds that the tax declaration submitted to the tax authority is incorrect after the deadline for submitting the tax declaration, the taxpayer may make adjust the tax declaration. The adjusted tax declaration may be submitted to the tax authority on any working days, regardless of the deadline for submitting the next tax declaration, but before the tax authority or competent authority announces the decision on tax inspection.

When the tax authority or a competent authority makes a conclusion or a decision on post-inspection actions, if the taxpayer finds that the tax declaration that was submitted and inspected is still incorrect, the taxpayer may make adjustments; the actions shall depend on the regulations, the objective and subjective reasons of the errors that need adjusting.

3. If the tax is calculated by the taxpayer, the amount of tax calculated must be paid by the deadline for submitting the tax declaration specified in Article 32 and Article 33 of the Law on Tax administration, Clause 9 and Clause 10 of Article 1 of the Law on the amendments to the Law on Tax administration.

4. If the tax is calculated or imposed by the tax authority, the deadline for tax payment is the deadline written on the tax notification or decision of tax collection made by the tax authority.

5. If the taxpayer suspends the business and send a written request the tax authority, the taxpayer may not submit the tax declaration during the suspension period. If the taxpayer resumes the

business ahead of schedule, a written notification and tax declaration shall be submitted to the tax authority.

6. The advance pricing agreements (APRIL) shall be made on the basis of independent transactions which reflect market prices in accordance with Vietnam's law and agreements on double taxations and tax avoidance to which Vietnam is a signatory.

The General Department of Taxation shall decide to enter into APA based on requests of taxpayers or foreign tax authorities.

#### **Article 6. Advance determination of classifications, customs values, and advance certification of origins of exported goods and imported goods**

1. Before following customs procedures, organizations and individuals shall provide relevant information and documents to the provincial Customs Department, and submit an application for advance determination of classifications, custom values or advance certification of origins of the goods intended to be exported or imported (hereinafter referred to as advance determination).

Within 05 working days from the day on which the sufficient documents are received, the Customs Departments shall request the Director of the General Department of Customs in writing to consider the application for advance determination.

2. Pursuant to law, the database of the customs authority, and the documents provided by the organization or individual, the Director of the General Department of Customs shall send a written notice of the advance determination within 25 working days from the day on which sufficient documents are received, and announce it on the website of the General Department of Customs.

For the complicated goods that need analyzing, and verifying before the advance determination, the deadline may be extended but shall not exceed 90 days from the day on which sufficient documents are received. If the verification is carried out by a competent authority overseas, the deadline shall depend on the agreement with the competent authority overseas.

If the information and basis for advance determination is not sufficient, the Director of the General Department of Customs shall request additional documents or information in writing within 05 working days from the day on which the documents sent by the provincial Customs Department is received.

3. The notice of advance determination is valid for no more than 03 years and is used for making customs declaration when the exported goods and imported goods are consistent with the information or documents provided.

If the information, documents and basis for advance determination are not changed after 03 years, the General Department of Customs shall consider extending the advance determination at the request of the organization or individual.

4. If the notice of advance determination is found unconfirmable, the Director of the General Department of Customs shall make an adjustment or replacement.

5. The notice advance determination shall be invalidated when the laws being the basis for the advance determination are changed. The invalidation begins from the effective date of the changed laws being the basis for the advance determination.

6. The notice of advance determination is not effective if the goods or the actual export/import documents are inconsistent with the goods or the documents that request the advance determination.

#### **Article 7. Giving incentives during tax administration of exported and imported goods.**

1. Any taxpayer that meets the criteria below shall be given incentives in tax administration:

a) No tax fraud, tax avoidance, smuggling, illegal transportation of goods across the border is discovered by tax authorities and customs authorities over the previous 2 years from the day on which the General Department of Customs receives the application for incentives from the taxpayer;

b) The payment for shipments of exported goods and imported goods are made by bank transfer;

c) The taxpayer follows electronic customs procedures and electronic taxation procedures;

d) No violations against legislation on accounting are found by competent authorities over the previous 2 years;

dd) The annual target of export or import turnover or investment scale set by the Ministry of Finance is met.

2. The taxpayers that meet the criteria in Clause 1 of this Article and have the enterprises recognized as privileged enterprises are eligible for “refund first, inspect later” regime.

3. Privileged enterprises of the countries that sign mutual recognition agreements on privileged enterprises with Vietnam are eligible for the incentives in accordance with the signed agreements.

4. Suspending and terminating incentives:

a) The enterprises recognized as privileged enterprises shall have the incentives suspended or terminated if any of the criteria mentioned in Points a, b, c and d Clause 1 of this Article is not met.

b) Incentives shall be terminated when:

- The enterprise fails to meet the criteria after the suspension period in Point a of this Clause is over;

- The enterprise makes a written request for the revocation of incentives;

- The enterprise does not apply for an extension after the incentive period is over.

5. The deadline and power for recognizing, extending, suspending, terminating, and managing privileged enterprises:

a) The duration of the first provision of incentives is 3 years;

b) The duration of extension is 3 - 5 years;

c) The incentive suspension period is 2 - 6 months;

d) The Director of the General Department of Customs shall decide the recognition, suspension, termination, and management of privileged enterprises.

#### **Article 8. Adjusting tax registration information**

1. When changing information in the application for tax registration submitted, the taxpayer shall notify the tax authority (written on the tax registration certificate, Certificate of Business registration, or Certificate of Enterprise registration) within 10 working days from the day on which the information is changed.

If the taxpayer has applied for tax registration but has not notified the tax authority of the accounts opened at commercial bank and credit institutions before this Decree takes effect, such accounts must be notified by December 31, 2013.

During the operation, if the account numbers are changed, the taxpayer shall report such changes to the tax authority in the quarterly preliminary corporate income tax form.

2. If the change in location of the head office of the taxpayer leads to the change in the tax authority in another central-affiliated city or province (hereinafter referred to as province), the taxpayer is responsible for settled the unpaid tax, request the refund of overpaid tax (minus personal income tax), and residual VAT after deduction, which is refundable (or request the tax authority to certify the residual VAT after deduction as the basis for the new tax authority to monitor) before moving, and is exempt from making the finalized tax declaration, unless the relocation takes place when annual finalized tax declaration is made. The overpaid personal income tax shall be offset against the tax payable at the new tax authority.

3. When the information in the tax registration certificate is changed, the tax authority shall withdraw the tax registration certificate and issue a new tax registration certificate to the taxpayer.

4. Where the application for tax registration follows the single-window procedure, the adjustment or additional registration shall also follow such procedure.

#### **Article 9. Tax declaration**

1. The tax declaration includes the tax forms

2. The tax forms must specify:

a) The type and code of the tax form;

b) The tax period or the time tax liability arises;

c) Information about the taxpayer: name, tax code, business address;

d) Information for calculating tax payable;

dd) The signature of the taxpayer or the legal representative of the taxpayer;

If the taxpayer makes tax declaration via a tax agent, the tax form must specify the name, tax code, business address of the tax agent; the agent contract; employees of the tax agent, and signatures of employees of the tax agent.

3. The electronic tax declaration shall comply with legislation on electronic customs procedures and electronic taxation procedures.

#### **Article 10. Additional tax declaration**

1. The additional tax declaration contains:

a) The tax form and relevant documents;

b) The explanation for the adjustment.

2. The deadline for submitting the additional tax declaration is specified in Article 34 of the Law on Tax administration and Clause 2 Article 5 of this Decree.

### **Article 11. Declaring VAT**

1. VAT declarations (except for VAT on exported goods and imported goods) shall be made as follows:

a) VAT declarations shall be made monthly, except for the cases in which taxpayers make quarterly declarations, ad hoc declarations, or presumptive declaration;

b) Declarations shall be made quarterly by the taxpayers whose revenue in the previous year is 20 billion VND or lower:

- If the business has just begun, VAT declarations shall be made monthly. After 12 months, VAT declarations shall be made every month or every quarter depending on the revenue from sale of the previous year.

- Quarterly tax declarations shall be made steadily for 3 calendar years, from the effective date of this Decree until the end of 2016;

- The taxpayers who make quarterly tax declarations shall notify the tax authority if they wish to make monthly tax declarations. The monthly or quarterly tax declarations shall be made steadily for the whole calendar year.

c) Ad hoc declarations shall be made when selling the goods and services that are built, installed, or sold by taxpayers in other provinces than the province where the head office is located without establishing a subsidiary (hereinafter referred to as inter-provincial business); if tax liabilities are incurred many times in a month, the taxpayer may register at the tax authority for making monthly VAT declarations.

2. VAT declaration:

a) A monthly or quarterly VAT declaration contains:

- The VAT form;

- The manifest of sale invoices;

- The manifest of purchase invoices;

- Other documents related to the amount of tax payable.

b) The ad hoc VAT declaration is the ad hoc VAT form.

### **Article 12. Declaring corporate income tax**

1. Declarations of corporate income tax shall be made in the form of:

a) Preliminary quarterly declarations;

b) Ad hoc declarations of corporate income tax on real estate transfer and other operations defined by legislation on corporate income tax;

c) Quarterly declarations shall be made by public service providers;

d) Annual finalized declarations or declarations shall be made when the enterprise undergoes division, splitting, consolidation, merger, conversion, dissolution, or shutdown.

2. Corporate income tax declaration:

a) Preliminary corporate income tax declaration is the quarterly preliminary corporate income tax form;

b) The declaration of corporate income tax on real estate transfer consists of the tax form reporting the income from real estate transfer and relevant documents.

c) Preliminary corporate income tax declaration is the quarterly corporate income tax form;

d) The finalized corporate income tax declaration consists of:

- The finalized corporate income tax form;

- The annual financial statement or financial statement made when the enterprise undergoes division, splitting, consolidation, merger, conversion, dissolution, or shutdown.

- Other documents related to finalized tax declaration.

dd) Ad hoc corporate income tax declaration is the ad hoc corporate income tax form.

### **Article 13. Declaring excise duty**

1. Excise duty on goods and services shall be made monthly (except for declaration of excise duty on imported goods). Ad hoc declarations of excise duty shall be made when the goods that are purchased to export are eventually sold domestically.

2. The excise duty declaration:

a) A monthly excise duty declaration consists of:

- A tax form reporting the monthly excise duty;

- The manifest of invoices of the sale of goods and services on which excise duty is levied;

- The manifest of deductible excise duty ((if any).

b) The ad hoc declaration of excise duty on the goods that are purchased to export but eventually sold domestically is the tax form reporting the excise duty.

### **Article 14. Declaring tax on exported goods and imported goods**

1. Declarations of exported goods and imported goods in this Article include: declarations of VAT, excise duty, export duties, import duties, environment protection tax.

2. The declaration of tax on exported goods and imported goods shall be made when tax is incurred.

If one customs declaration is registered for multiple exports or imports, tax declarations shall be made when following customs procedures for exporting or importing.

3. For exported goods and imported goods exempt from export duties, import duties, excise duties, VAT, environmental protection tax, or are exempt from tax, or are eligible for preferential tax rates, incentives, but then the subjects or purposes of tax exemption or incentives are changed, the taxpayer shall comply with legislation on such changes, notify the customs



authority where the shipments are registered to make a new customs declaration that matches the changes.

When the imported goods for forming fixed assets of preferential projects, which are eligible for preferential import duties in certain fields or localities, are transferred to another person who keeps executing the projects in the privileged locality or field, the tax incentives are still provided in accordance with the laws. The transferee shall not declare and pay import duties.

4. The declaration of tax on exported goods and imported goods is the customs dossier.
5. Additional tax declarations shall be made in accordance with regulations of the Ministry of Finance.

#### **Article 15. Declaring severance tax (except for severance tax on crude oil and natural gas)**

1. Declarations of severance tax shall be made in the form of:
  - a) Monthly declarations shall be made by organizations and individuals that extract resources, except for the cases in Point b of this Clause and the cases in which presumptive tax declarations are made;
  - b) Ad hoc declarations shall be made when the resource buyer pays tax on behalf of the extractor, or when selling the confiscated natural resources, on which severance tax is levied. If resources are purchased many times in a month, the delegated taxpayer may make monthly tax declarations.
  - c) Finalized declarations shall be made annually or when the resource extraction is finished, or the enterprise is converted, restructured, or shut down.
2. Severance tax declaration:
  - a) The monthly or ad hoc severance tax declaration consists of the severance tax form and the manifest of resource purchases;
  - b) The finalized severance tax declaration consists of the finalized severance tax form and relevant documents.

#### **Article 16. Declaring environmental protection tax**

1. Environmental protection tax declarations shall be made as follows:
  - a) Declarations of environmental protection tax on imported goods, on which environmental protection tax is levied (except for gasoline and grease imported by oil wholesalers), shall be made in accordance with Article 14 of this Article;
  - b) Declarations of environmental protection tax on the goods (or packages used for prepacking goods) that are produced, sold, exchanged, internally used, or donated shall be made monthly.
2. Environmental protection tax declaration:
  - a) The declarations of environmental protection tax on imported goods (except for imported gasoline and grease of oil wholesalers) shall be made in accordance with Clause 4 Article 14 of this Decree;
  - b) The declaration of environmental protection tax on goods (or packages used for prepacking good) that are produced, sold, exchanged, internally used, or donated, oil or gas of oil

wholesalers is the environmental protection tax form. Oil wholesalers shall declare tax on the oil and gas exported or sold in the locality where VAT declarations are made.

#### **Article 17. Declaring personal income tax**

1. Declarations of personal income tax include monthly declarations, quarterly declarations, annual declarations, and ad hoc declarations.

2. The monthly, quarterly, annual, and ad hoc declarations of personal income tax shall be made under legislation on personal income tax.

The tax declaration is the personal income tax form and relevant documents.

3. Finalized personal income tax declarations shall be made under legislation on personal income tax.

a) The finalized tax declaration made by the wage payer is the finalized tax form and relevant documents.

a) The finalized tax declarations made by the income earner is the finalized tax form and relevant documents of the individual.

4. The Ministry of Finance shall provide guidance on making tax declarations and finalized tax declarations.

#### **Article 18. Declaring license tax**

1. License tax declarations shall be made as follows:

a) License tax declaration shall be made once on not later than the last day of the month in which the operation is commenced. If the business is not commenced though the business establishment has been established, the license tax declaration must be made within 30 days from the day on which the Certificate of business registration and tax registration or the Certificate of Enterprise registration is issued;

b) License tax declaration shall be made in the year if the amount of license tax payable is changed.

2. The license tax declaration is the license tax form.

#### **Article 19. Declaring tax and government revenues from land**

1. The declarations of revenues from land shall be made in the form of:

a) Annual declarations, applicable to:

- Tax on non-agricultural land;
- Tax on agricultural land;
- Land rent and water surface rent paid by renters annually.

b) Ad hoc declarations, applicable to;

- Land levies;
- Lump sum payments of land rent and water surface rent paid by renters.

2. Declarations of tax and revenues from land classified as government revenues:

- a) The declaration of tax on non-agricultural land is the tax form reporting taxes on non-agricultural land and relevant papers;
- b) The declaration of tax on agricultural land is the tax form reporting taxes on agricultural land;
- c) The declaration of land rent or water surface rent consists of:
  - The declaration sheet of land rent or water surface rent;
  - The papers related to the State leasing land or water surface;
  - The paper proving the eligibility for exemption or reduction of land rent or water surface rent (if any);
  - papers related to compensation and support (if any).
- d) The declaration of land levies consists of:
  - The declaration sheet of land levy;
  - The papers related to the land location or permission for changing land purposes;
  - paper proving the eligibility for exemption or reduction of land rent or water surface rent (if any);
  - papers related to compensation and support (if any).

#### **Article 20. Declaring fees, charges, and other government revenues**

1. Declarations of fees, charges, and other government revenues shall be made in the form of:
  - a) Monthly declarations, applicable to fees and charges, except for the cases in Point b of this Clause;
  - b) Ad hoc declarations, applicable to registration fee;
  - c) Annual finalized declarations or declarations when shutting down, applicable to the cases in Point a of this Clause;
  - d) Declarations of customs fees shall comply with regulations of the Ministry of Finance.
2. The declaration of fees, charges and other revenues classified as government revenues in Clause 1 of this Article are the declaration sheet or finalized declaration sheet of fees, charges, other revenues classified and government revenues, and relevant papers.

#### **Article 21. Declaring VAT, corporate income tax (or personal income tax) incurred by foreign organizations and individuals that do business in Vietnam or earn incomes in Vietnam (hereinafter referred to as foreign contractors); declaring taxes related to the application international agreements on taxation and other international agreements.**

1. Tax declarations made by foreign contractors that pay VAT by directly calculating VAT, or that pay corporate income tax based on percentage of revenue (or personal income tax)
  - a) Tax declarations made by foreign contractors being foreign organizations:
    - Ad hoc declarations of VAT or corporate income tax. If tax liabilities are incurred many times in a month, the taxpayer may register at the tax authority for making monthly or quarterly tax declarations;

- Finalized tax declarations when contracts are finished.

b) Tax declarations made by foreign contractors being foreign individuals:

Declarations of VAT in accordance with this Article; declarations of personal income tax in accordance with Article 17 of this Article.

c) Tax declarations made by foreign contractors:

- A tax declaration consists of:

+ The tax form made by the foreign contractor;

+ Photocopies of contracts, sub-contracts, and their summaries in Vietnamese related to the tax declared (for the first tax declaration of the contract).

- The finalized tax declaration consists of:

+ The finalized tax form made by the foreign contractor;

+ The list of contractors and sub-contractors engaged in the execution of the contract;

+ The list of tax payment receipts;

+ The note of contract finalization (if any).

2. Declaration of taxes that related to the application of international agreements on taxation and other international agreements.

The applications for exemption or reduction of tax on goods and services eligible for tax exemption or reduction according to International Agreements, to which Vietnam is a signatory, shall be submitted together with the tax declaration.

The Ministry of Finance shall specify the procedures for tax exemption and reduction in accordance with International Agreements. The relevant state agencies are responsible for certifying the goods and services eligible for tax exemption or reduction according to the International Agreements they signed.

**Article 22. Declaring severance tax and corporate income tax on the extraction and export of crude oil (including condensate) and natural gas (including associated gas, coal gas); declaring VAT, corporate income tax, and severance tax on hydropower generation:**

1. For the extraction and export of crude oil and natural gas

a) Declarations of tax on extraction and export of crude oil and natural gas shall be made in the form of:

- Declarations of severance tax and corporate income tax on every export of crude oil;

- Monthly declarations of severance tax on natural gas;

- Monthly or quarterly declarations of corporate income tax on natural gas;

- Finalized declarations of severance tax or corporate income tax on crude oil and natural gas made annually or when the petroleum extraction contract is finished or terminated.

b) Tax declaration

- The declaration of severance tax and corporate income tax on crude oil and natural gas is the preliminary tax form;
  - The finalized declarations of severance tax or corporate income tax on crude oil and natural gas is the finalized tax form reporting severance tax or corporate income tax, the manifests and documents related to the tax payable.
- c) The Ministry of Finance shall decide the declaration and payment of tax on the extraction and export of crude oil and natural gas in accordance with the transactions and payment for exported crude oil or natural gas.

## 2. For hydropower generation:

- a) Declarations and payment of VAT: the hydroelectric power producer shall make VAT declarations in the locality where its head office is situated and pay VAT to the State Treasury where the hydroelectric power plant (turbines, hydroelectric dams, and essential infrastructures of the hydroelectric plant) is situated. If the hydroelectric power plants are located in multiple provinces, the VAT paid by the hydroelectricity producer to provincial budget shall be proportional to its investments in such provinces.
- b) Declaring and paying corporate income tax: If an independent hydroelectric power company has affiliated hydroelectric power producers in other provinces that the province where the head office of the hydroelectric power company is situated, the corporate income tax shall be calculated and paid in the provinces where the head office and the affiliated hydroelectric power producers are situated in accordance with the Law on Corporate income tax; the affiliated hydroelectric power producers and electricity corporations affiliated to EVN (including affiliated hydroelectric power companies and affiliated hydroelectric power plants) in other provinces that the province where the head offices of EVN and electricity corporations are situated, the corporate income tax shall be calculated and paid in the provinces where such head offices and the affiliated hydroelectric power producers are situated under legislation on corporate income tax. If the hydroelectric power plants are located in multiple provinces, the corporate income tax paid by such hydroelectric power plants to the provincial budget is proportional to the investment in such provinces;
- c) Declaring and paying severance tax: hydroelectric power producers shall declare and pay severance tax in the locality where tax is registered. If severance tax incurred by the hydroelectric power producer is distributed to various localities, the hydroelectric power producer shall submit the declaration of severance tax to the local tax authority where tax declaration is registered (or where the head office is situated) and send the photocopy of the severance tax declaration to the tax authority of the province where the severance tax is levied, and pay severance tax to the provincial budgets based on the areas of hydroelectric reservoirs, the compensation for land clearance, resettlement, the number of households being resettled, and the compensation for damage to the reservoir;
- d) The sources on which VAT, corporate income tax, and severance tax are levied in Point a, b, c, are applicable to the hydroelectric power plants that commence their operation from the effective date of the Government's Decree No. 106/2010/NĐ-CP dated October 28, 2010. The Ministry of Finance shall provide guidance on the declaring and paying tax on hydropower generation.

### **Article 23. Declaring presumptive tax**

1. Annual tax declarations shall be made by business household and business individuals that pay presumptive taxes on their regular operation.

2. Business individuals and business households that pay presumptive taxes shall make declarations and pay VAT, excise duty, severance tax, environmental protection tax, and personal income tax. If the business household or individual that pay presumptive taxes earns revenues, which do not incur VAT according to the Law on Value-added tax, and earns incomes, which do not incur personal income tax according to the Law on Personal income tax, the VAT and personal income tax shall not be paid.

Tax authorities shall post the list of business households and individuals exempted from paying presumptive taxes and the amount of tax payable by business households and individuals that pay presumptive taxes on the websites of tax authorities.

The Ministry of Finance shall specify the announcement of tax payable to the state budget by business households and individuals as prescribed in this Article.

#### **Article 24. Deadlines for submitting tax declarations**

1. The deadlines for submitting tax declarations are specified in Article 32 and Article 33 of the Law on Tax administration, Clause 9 and Clause 10 Article 1 of the Law on the amendments to the Law on Tax administration.

2. The deadline for submitting the declaration of registration fee is the day on which the taxpayer registers the right to ownership or enjoyment of property with competent authorities.

3. The deadline for submitting the declaration of tax on the lump sum payment of land rent or land levy is the 30<sup>th</sup> day from the day on which the decision to allocate land or to lease out land is made.

4. The deadline for submitting the declaration of tax and government revenues related to land:

a) The deadline for the first declaration is the 30<sup>th</sup> day from the day on which the liability to the state budget is incurred;

b) If the taxpayer or the amount payable is changed, the additional declaration must be submitted within 30 days from the day on which the change happens.

c) The declaration of tax on non-agricultural land is March 31 of the next calendar year.

5. The deadlines for submitting the declaration of tax on exported goods and imported goods are specified by legislation on customs.

#### **Article 25. Places where tax declarations are received**

1. Taxpayers shall submit declarations of tax, fees and charges, and other government revenues at the tax authority, except for the cases in Clause 2, Clause 3, Clause 4, and Clause 5 of this Article.

2. The declarations of tax on non-agricultural land, agricultural land, declarations of registration fee, VAT on inter-provincial business, and presumptive tax declarations shall be submitted at local sub-departments of taxations where such taxes are incurred.

3. The declarations of severance tax on resource extraction and corporate income tax on real estate transfers, which takes place in the same province where the head office of the taxpayer is situated, shall be submitted at the local tax authority (Department of Taxation or Sub-department

of taxation). If the head office of the taxpayer is located in another province than the province where the resource extraction or real estate transfer takes place, the tax declaration shall be submitted at the tax authority (Department of Taxation or Sub-department of taxation) where the resource extraction or real estate transfer takes place.

The places where declarations of severance tax on extraction of crude oil and natural gas shall be specified by the Ministry of Finance.

4. The taxpayers that have their goods, on which excise duties are levied, produced at other provinces than the province where the head office is situated shall submit the declarations of excise duty in the province where such goods are produced.

5. The declarations of import and export duties shall be submitted at the customs authority where the customs declaration is made. The submission of electronic declarations of export and import duties shall be specified by the Ministry of Finance.

6. If the tax declarations are submitted under the single-window procedure, the place where tax declarations are submitted shall also follow such procedure.

#### **Article 26. Places and methods for paying tax**

1. Taxpayers shall pay tax, late payment interest, and fines to the state budget:

- a) Via credit institutions, according to the Law on Credit institutions, and other service providers;
- b) At State Treasuries;
- c) At tax authorities;
- d) Via organizations authorized by tax authorities to collect tax.

2. Tax authorities shall open accounts at credit institutions in accordance with the Law on credit institutions to concentrate the revenues from tax, late payment interest, fines, and other payments made by taxpayers (hereinafter referred to as government revenues) at State Treasuries. At the end of a working day, the tax, late payment interest, and fines paid by taxpayers to the accounts at the credit institutions must be remitted to the state budget.

The Ministry of Finance shall specify the remittance of tax, late payment interest, fines, and other government revenues to the state budget; the accounts of tax authorities at credit institutions shall be opened in accordance with the Law on credit institutions,

3. Credit institutions - according to the Law on credit institutions, service providers, State Treasuries, tax authorities, the organizations delegated by tax authorities to collect tax (hereinafter referred to as tax collectors) are responsible for arrange places, equipment, and personnel to collect tax and ensure the convenience for taxpayers to pay tax, late payment interest, and fines to the state budget.

4. When receiving tax, late payment interest, fines, or deducting tax, the tax collector shall issue tax payment receipts to taxpayers.

5. The Ministry of Finance shall set deadlines for remitting tax, late payment interest, and fines, which are collected in cash in remote areas, islands, or inconvenient areas, to the state budget.

6. The tax collectors that fail to remit the tax, late payment interest, and fines paid by taxpayers to the state budget shall pay late payment interest on the period from the deadline to the day on which those amounts are remitted to the state budget.

**Article 27. Payment of tax, late payment interest, and fines under the management of tax authorities.**

The order of paying tax, late payment interest, and fines is specified in Point 1 Clause 12 Article 1 of the Law on the amendments to the Law on Tax administration. The amounts shall be paid in chronological order.

The Ministry of Finance shall specify the order for paying tax, late payment interest, and fines mentioned in this Clause.

**Article 28. Determining date of tax payment.**

1. The date of tax payment in cash or by bank transfer to the tax collector is the day certified by the tax collector on the tax payment receipt.
2. The date of tax payment by electronic means is the date on which the taxpayer draws an amount from their bank account to pay tax, and the successful tax payment is certified by the core banking system.

**Article 29. Settling overpaid tax, late payment interest, and fines.**

1. Tax, late payment interest, and fines are considered overpaid when:
  - a) The tax, late payment interest, and fines paid by the taxpayer is higher than the tax, late payment interest, and fines payable for ten years from the day on which those amounts are paid to the state budget, except for the cases in Clause 2 Article 111 of the Law on Tax administration;
  - b) The taxpayer receives a tax refund under legislation on VAT, excise duty, export duties, import duties, environmental protection tax, and personal income tax.
2. The taxpayer is entitled to request the tax authority to settle the overpaid tax, late payment interest, and fines in the following forms:
  - a) Offsetting the overpaid tax, late payment interest, and fines against the tax, late payment interest, and fines that are unsettled;
  - b) Offset the overpaid amounts against the tax payable in the next period, except for the cases in Point b Clause 1 of this Article;
  - c) Refund an offset the overpaid amounts against other taxes, late payment interest, and fines that are unsettled, or refund the overpaid amounts if no tax, late payment interest, and fines are unsettled.
3. The taxpayer is dead, missing, incapable of civil acts shall have their overpaid tax, late payment interest, and fines settled by the tax authority in accordance with the Civil Code and Clause 2 of this Article.
4. The Ministry of Finance shall specify the procedure for offsetting overpaid tax, late payment interest, and fines mentioned in Clause 2 of this Article.
5. Wage payers that are authorized by taxpayers to make personal income tax declarations shall offset the overpaid tax against the tax arrears, and refund the overpaid tax to the taxpayers. The Ministry of Finance shall specify the implementation of this Clause.

**Article 30. Paying tax during settlement of complaints and lawsuits**



1. During the settlement of the complaint or lawsuit filed by a taxpayer against the amount of tax calculated or imposed by the tax authority, the taxpayer still has to pay the tax, late payment interest, and fine (if any), unless the competent authority decides to suspend the decision on tax calculation or tax imposition made by the tax authority.

2. If the paid tax is higher than the tax determined after the complaint is settled by the competent authority or a judgment of the court, the taxpayer may offset it against the tax in the next, or shall receive a refund of the overpaid amounts and the interest on the overpaid tax.

a) The interest shall be charged for the period from the date of payment till the day on which the tax authority makes a decision on tax refund;

b) The interest rate is the fundamental rate announced by the State bank and takes effect when the tax authority makes a decision on tax refund.

### **Article 31. Tax deferral**

1. Cases eligible for tax deferral:

The tax deferral shall be considered based on the requests made by the taxpayer in one of the cases below:

a) The taxpayer suffers from physical damage caused by natural disasters, fire, unexpected accidents, which affect the business;

Physical damage is damage done to property of the taxpayer, which can be converted into cash, such as machinery, equipment, supplies, goods, workshops, offices, money, and valuable papers.

b) The operation is suspended when moving the premises at the request of competent authorities, which affect the business;

c) The fundamental construction capital, which is written in the state budget estimate, is not paid;

d) The taxpayer is not able to pay tax on schedule since the production or preservation cycle of materials and supplies imported to produce exports is longer than 275 days; the taxpayer faces other special difficulties.

2. The deferrable tax, late payment interest, and fines:

a) The deferrable tax, late payment interest, and fines in the cases specified in Point a Clause 1 of this Article are the outstanding tax, late payment interest and fines up to the time when the natural disaster, fire, or unexpected accident occurs. The deferrable amount must not exceed the difference between the value of physical damage incurred by the taxpayer and the compensation provided.

b) The deferrable tax, late payment interest, and fines in the cases specified in Point b Clause 1 of this Article are the outstanding tax, late payment interest and fines up to the time when the operation is suspended. The deferrable amount must not exceed the expenditure on moving and the damage done by the move.

c) The deferrable tax, late payment interest, and fines in the cases on specified in Point c Clause 1 of this Article are the outstanding tax, late payment interest, and fines when the deferral is requested. The total amount of deferrable tax, late payment interest, and fines eligible must not exceed the capital that has not been paid by the state budget;

d) The deferrable tax, late payment interest, and fines in the cases on specified in Point c Clause 1 of this Article are the outstanding tax, late payment interest, and fines incurred by the taxpayer due to other special difficulties.

3. Duration of tax deferral:

a) The duration of tax deferral shall not exceed 02 years from the deadline for paying tax, applicable to the cases in Point a Clause 1 of this Article;

b) The duration of tax deferral shall not exceed 01 years from the deadline for paying tax, applicable to the cases in Points b, c, and d Clause 1 of this Article.

4. The power to decide tax deferral:

a) Based on the application for tax deferral, the head of the tax authority shall decide the deferrable amount and duration of tax deferral in the cases in Points a, b, c Clause 1 of this Article.

b) The head of the customs authority shall decide the deferrable amount and duration of tax deferral in the cases in Points a, b, c Clause 1 of this Article, and in the cases in which the production or preservation cycle of the materials and supplies imported for producing export is longer than 275 days according to Point d Clause 1 of this Article;

c) The tax deferral in other special difficult cases must ensure that the government revenue estimated by the National Assembly is not changed, in particular:

- The Government shall decide the tax deferral when providing support for the market and resolving common economic difficulties;
- The Prime Minister shall decide the tax deferral in other special difficult cases at the request of the Minister of Finance.

5. The decisions on tax deferral shall be posted on websites of tax authorities.

### **Article 32. Writing off outstanding tax, late payment interest, and fines.**

1. Cases in which outstanding tax, late payment interest, and fines are written off:

a) The enterprise that has declared bankrupt has no property to pay tax, late payment interest, and fines after making the payments under legislation on bankruptcy;

b) The individual is considered dead, missing, incapable of civil acts, and has no property to pay tax, late payment interest, and fines;

c) The outstanding tax, late payment interest, and fines that are not mentioned in Point a, b Clause 1 of this Article and meet the conditions below:

- It is more than 10 years from the deadline for paying tax, late payment interest, and fines;
- The tax authority fails to collect sufficient tax, late payment interest, and fines after taking all measures to enforce administrative decisions on taxation.

2. When the principal is written off in the cases in Clause 1 of this Article, the interest on late payment of such principal shall be also written off.

3. Range of writing off outstanding tax, late payment interest, and fines

The taxes written off include taxes, late payment interest, fines, and other government revenues managed and collected by tax authorities.

Outstanding land levy and land rent shall be written off in accordance with the Law on land and its guiding documents.

4. Reporting outstanding tax, late payment interest, and fines written off annually

a) Presidents of provincial People's Committees shall summarize the tax, fines for late payment, and fines that are written off every year in accordance with Clause 22 Article 1 of the Law on the amendments to the Law on Tax administration, and send reports to the Ministry of Finance when reporting the provincial budget finalization;

b) The Minister of Finance shall summarize the tax, fines for late payment, and fines that are written off every year in accordance with Clause 22 Article 1 of the Law on the amendments to the Law on Tax administration;

c) The Minister of Finance shall send the Government reports on the tax, fines for late payment, and fines that are written off every year according to Points a and b of this Clause. The Government shall then request the National Assembly to approve the State budget finalization.

5. The Ministry of Finance shall provide guidance on the documentation and procedure for writing off tax, late payment interest, and fines.

### **Article 33. Imposing tax**

1. The taxpayer shall have the tax payable imposed by tax authorities in the following cases:

a) They fail to apply for tax registration according to Article 22 of the Law on Tax administration;

b) The taxpayer fails to submit the tax declaration within 10 days from the deadline or extended deadline for submitting the tax declaration;

c) The taxpayer fails to complement the tax declaration at the request of the tax authority, or the tax declaration is not sufficiently complemented, the basis for calculating tax payable is not truthful or accurate;

d) The taxpayer fails to present accounting documents and papers related to the determination of basis for tax calculation after tax inspection at the taxpayer's premise.

dd) The tax inspection proves that the taxpayer does bookkeeping improperly, the data in accounting books is insufficient, inaccurate, or untruthful which leads to inaccurate determination of basis for tax calculation;

e) The taxpayer is suspected of making a getaway or dispersing assets to avoid tax liabilities;

g) The taxpayer has submitted the tax declaration to the tax authority but fails to calculate the tax payable.

2. For some lines of business, if the tax inspector finds inadequate accounting books or invoices, or tax are not accurately declared or calculated, the tax authority shall impose a ratio of value added and ratio of income to revenue in accordance with law.

3. The taxpayer shall have the tax on exported goods and imported goods imposed by tax authorities when:

- a) The taxpayer calculate and declare tax based on illegitimate documents; fails to make declarations or to declare sufficiently and accurately the information related to tax liabilities;
- b) The taxpayer avoids or delays the provision of relevant documents at the request of the customs authority to determine the tax payable; fails to prove or explain the information related to the determination of tax liabilities by the deadline; fails to comply with the decision on inspection of the customs authority.
- c) The customs authority has proved that the customs value declared by the taxpayer is not consistent with actual value;
- d) The taxpayer fails to calculate the tax payable.
- dd) Other cases in which the customs authority or other authorities find that the tax declaration or tax calculation is not conformable with law;

The Director of the General Department of Customs, Directors of provincial Departments of Customs, and Directors of Sub-departments of customs are entitled to impose tax as prescribed in this Clause.

#### **Article 34. Imposition of relevant factors related to tax calculation**

The taxpayer shall have the factors related to tax calculation imposed in the following cases:

1. After examining the tax declaration, the tax authority suspects that the taxpayer does not sufficiently or accurately declare the factors for tax calculation, and the taxpayer fails to make a supplementary at the request of the tax authority.
2. After examining the accounting books and invoices related to the tax payable, the tax authority can prove that the taxpayer does not accurately or truthfully record the factors related to tax calculation.
3. The sale prices of goods and services recorded are not consistent with the actual prices with reduce the taxable revenue, or prices of goods and materials serving the business are not consistent with the actual prices with increase the expense and deductible VAT, and reduce tax liabilities.
4. The taxpayer fails to explain or prove the accuracy of the information related to the quantity, categories, origins, taxable values, codes, tax rates, or the amount of tax exempted, reduced, or refund of exported goods and imported goods.
5. The taxpayer has submitted the tax declaration but fails to determine the factors for tax calculation, or the factors for tax calculation are determined by the taxpayer fails to calculate the tax payable.

#### **Article 35. Basis for tax imposition**

The tax authority shall impose tax in the cases mentioned in Article 34 and Article 35 of this Decree based on one of the information below:

1. The database of the tax authority which is collected from:
  - a) The tax declarations and the amount of tax paid in previous periods;
  - b) Information about business transactions between the taxpayer and relevant organizations and individuals;

- c) The information provided by state authorities;
- d) Other information collected by the tax authority.

2. The information about:

- a) The local taxpayers that trade in the same articles, engage in the same business line, or have the same business scale. If the information about the articles, business line, and scale of the taxpayer is not available in the locality, such information shall be obtained in other localities.
- b) The average tax payable by some local businesses that engaged in the same business line or trade in the same articles. If the information about local businesses that engaged in the same business line or trade in the same articles is not available, such information shall be obtained in other localities.

3. Effective inspection results and documents.

### **Article 26. Advance pricing agreement**

1. Subjects of application:

The taxpayers defined in the Law on Corporate income tax that make tax declarations using the methods in Clause 1 Article 11 of the Law on Corporate income tax (corporate income tax payable = assessable income multiplied (x) by tax rate) and make transactions with the parties involved.

2. APA is used for determining corporate income tax in the tax year of the enterprises involved. An APA shall contain:

- a) The names and addresses of the parties that enter into APA;
- b) Descriptions of transactions within APA;
- c) The method of calculating taxable prices, prices, gross profit margin, and profitability as the basis for calculating taxable prices related to APA transactions;
- d) The important presumptions that may significantly affect the implementation of APA (including analyses and forecasts);
- dd) Responsibilities and obligations of taxpayers;
- e) The responsibilities and obligations of tax authorities (including regulations on bilateral agreements between relevant tax authorities);
- g) The effect;
- h) Other regulations on tax liabilities related to APA;
- i) Appendixes (if any).

3. The General Department of Taxation shall accept offer of APA, discuss and negotiate with taxpayers or foreign tax authorities involved; supervise the implementation of APA.

4. The Ministry of Finance shall specify the application of APA to tax administration; approve the APA and assign the General Department of Taxation to sign it.

5. The validity period of an APA is not longer than 05 years, and may be extended for no more than 05 more years. The APA shall not take effect before the taxpayer requests the application of APA.

6. The APA may be suspended or terminated any time before the official expiration at the request of taxpayers or tax authorities.

If the APA must be terminated due to objective reasons, or the APA must be amended, or a new APA must be signed, the taxpayer shall Send a written request for the termination, supplementation of information or documents, or compilation of dossiers in accordance with Clause 2 of this Article to terminate or amend the signed APA, or to sign a new APA.

When an APA is terminated ahead of schedule according to Clause 5 of this Article, the information provided by taxpayers must not be used by tax authorities as evidence serving the tax inspection or tax imposition.

### **Article 37. Deadline for paying tax calculated or imposed by the tax authority**

1. Deadline for paying tax calculated or imposed by the tax authority is the deadline written in the notification made by the tax authority, in particular:

a) The deadline for paying tax on non-agricultural land, agricultural land, land levy, land rent, water surface rent, and registration fees is the deadline written on the tax notices (or bills) made by the tax authority;

b) The deadline for paying presumptive taxes shall be decided by the Ministry of Finance;

c) For the cases in which tax is imposed by the tax authority because of late submission of the tax declaration, the deadline for paying tax is 10 days from the day on which the tax authority signs the decision on tax imposition;

d) For the cases in which tax is imposed by the tax authority based on tax inspection records, the deadline for paying tax is 10 days from the day on which the tax authority signs the decision on tax imposition. If the tax imposed is 500,000,000 VND or higher, the deadline is 30 days from the day on which the tax authority signs the decision on tax imposition.

### **Article 38. Conditions for application of the deadline for paying tax on materials and supplies imported for producing exports**

1. The taxpayer may apply the deadline of 275 days according to Clause 11 Article 1 of the Law on the amendments to the Law on Tax administration when all conditions below are satisfied:

a) The taxpayer has factories, where exports are produced, in Vietnam;

b) The taxpayer has engaged in export and import for at least 02 consecutive years by the day on which the customs declaration of materials and supplies imported for producing exports is made.

b) The taxpayer does not have any record for smuggling, illegal transportation of goods across the border, tax avoidance, or trade fraud over the last 02 years from the day on which the customs declaration of materials and supplies imported for producing exports is made.

c) The taxpayer does not have overdue tax arrears, late payment interest, and fines for exported goods and imported goods when the customs declaration is registered;

d) The taxpayer has not incurred any penalties for administrative violations against legislation on accounting over the last 02 years from the day on which the customs declaration is registered;

dd) The taxpayer makes payment for the import of goods for producing exports by bank transfer.

2. If the import is authorized, the taxpayer must present the import authorization contract. The enterprise authorized to import must comply with Points b, c, d, dd Clause 1 of this Article.

If the parent company or associate company imports or provide imported goods to other subsidiary companies or associate companies to produce exports, the conditions in Points b, c, d, dd Clause 1 of this Article must be satisfied.

### **Article 39. Paying tax arrears in installments**

1. The taxpayer is not able to pay the tax arrears one time may pay them in installments over no more than 12 months from the effective day of the decision on taxation enforcement, provided that taxpayers has the tax arrears guaranteed by a credit institution, and a commitment to pay tax arrears and late payment interest to the state budget is made.

The taxpayer must comply with the commitment to evenly divide the tax arrears to pay them in installments every month.

For exported goods and imported goods, the taxpayer must pay the tax on the shipment that is undergoing customs procedures before customs clearance, or must be guaranteed by a credit institution, apart from the aforesaid conditions.

2. Obligations of taxpayers that pay tax arrears in installments.

a) While paying the tax arrears in installments, the taxpayer still have to pay late payment interest at 0.05% of the tax arrears per day;

The taxpayer must pay the tax and late payment interest in full.

c) If the taxpayer fails to pay tax arrears and late payment interest on schedule, the guaranteeing organization shall pay them on behalf of the taxpayer, including the tax arrears, late payment interest at 0.05% of tax arrears per day and late payment interest at 0.07 % of late payment interest per day.

3. The power to decide tax payment in installments:

a) The head of the tax authority shall decide the payment of tax arrears in installments;

b) The head of the customs authority shall decide the payment of tax arrears on exported goods and imported goods of taxpayers.

4. The Ministry of Finance shall provide guidance on the documentation and procedure for paying tax arrears in installments specified in this Article.

### **Article 40. Discharging tax liabilities when exiting.**

1. The Vietnamese people that leave Vietnam to reside abroad, the Vietnamese people that reside abroad and foreign must discharge tax liabilities before exiting Vietnam.

2. The taxpayers mentioned in Clause 1 of this Article must be have the discharge of tax liabilities certified by tax authorities before exiting Tax authorities shall certify the discharge of tax liabilities in writing at the request of taxpayers.

3. The immigration agencies shall suspend the exit of an individual when receiving a written notice or email from the tax authority about the undischarged tax liabilities.

## **Article 41. Obligations of tax authorities to processing tax refund applications**

1. Tax authorities shall refund first, inspect later under legislation on taxation, except for the cases in Clause 2 of this Article.

2. Cases of tax inspection before tax refund:

- a) Refunding tax in accordance with International Agreements to which Vietnam is a signatory;
- b) The taxpayer makes a claim tax refund for the first time, except for the claims for refund of personal income tax. Where the taxpayer sends a tax refund application to the tax authority for the first time but is not eligible for tax refund, the next claim for tax refund is considered the first claim for tax refund;
- c) The taxpayer makes a claim for the tax refund within 02 years from the day on which tax avoidance or tax fraud was penalized;

If no false declaration, which leads to a reduction in tax payable or increase tax refund according to Clause 33 Article 1 of the Law on the amendments to the Law on Tax administration, is made, or no tax avoidance or trade fraud, according to Article 108 of the Law on Tax administration and Clause 34 Article 1 of the Law on the amendments to the Law on Tax administration, is committed when making the first claim for tax refund during the aforesaid 2-year period, the tax refund application shall not be subject to tax inspection before refund. If the taxpayer is found to make false declarations, commit tax avoidance or tax fraud, according to Clause 33 and Clause 34 Article 1 of the Law on the amendments to the Law on Tax administration and Article 108 of the Law on Tax administration, when making the next claims for tax refund, the taxpayer shall be subject to tax inspection before refund until the end of the 2-year period.

- d) Payments for goods and services in the application for tax refund are not made via bank transfer, except for applications of VAT refund;
- dd) The enterprise is undergoing merger, amalgamation, division, dissolution, bankruptcy, conversion, shutdown; the state-owned enterprise is transferred, sold, or leased;
- e) The taxpayer fails to provide explanation or supplement the application for tax refund by the deadline, or fails to prove the accuracy of the tax declaration after providing explanation and supplementation. This regulation is not applicable to the goods and services eligible for tax refund;
- g) The taxpayer has not provided bank transfer receipts when submitting the application for tax refund;
- h) The licensed imported goods must comply with the regulations on quarantine, food safety and hygiene, and goods quality inspection;
- i) The imported goods subject to inspection before tax refund as defined by the Ministry of Finance.

3. Deadline for processing tax refund applications

- a) The deadlines for processing tax refund applications are specified in Point 2 and Point 5 Clause 18 Article 1 of the Law on the amendments to the Law on Tax administration, except for the cases in Point b of this Clause;



In this case, the tax refund applications are eligible for tax refund before inspection. The period from the day on which the tax authority requests the explanation or supplementation to the day on which the tax authority receives the explanation or supplementation is not included in the time limit for processing the tax refund application.

b) The deadlines for processing tax refund applications in Clause 13 Article 1 of the Law on the amendments to the Law on Tax administration is applicable to the applications for refund of overpaid tax, which is certified by the tax authority, the applications for refund of overpaid tax, late payment interest, and fines of exported goods and imported goods;

The heads of tax authorities shall issue decisions on tax refund. If the late processing of the tax refund application is on account of tax authority, the taxpayer shall receive interest on the late refund apart from the tax refund; the interest shall be calculated in accordance with Point a, b Clause 2 Article 30 of this Decree. The interest shall be deducted from the fund for tax refund as prescribed by the Ministry of Finance.

4. The deadline for post-refund inspection according to Point 3 Clause 13 Article 1 of the Law on the amendments to the Law on Tax administration;

a) The tax authority shall carry out the post-refund inspection within 01 year from the day on which the decision on tax refund is made, except for the cases below:

- The business suffers from a loss for 02 consecutive years preceding the year in which the decision on tax refund is made, or the loss exceeds the equity up to the year exceeding the year in which the decision on tax refund is made. The loss is determined based on the finalized declaration of corporate income tax or the inspection conclusion made by a competent authority.

- Businesses shall receive refunds of tax on real estate business, goods sale, or service provision. If a business fails to separate the tax on real estate, goods sales, or service provision, the post-refund inspection shall be carried out within 01 year from the day on which the decision on refunding tax on the entire business is made.

- The business changes its premises twice within the previous 12 months from the day on which the decision on tax refund is made;

- The business undergoes an unusual change in the taxable revenue and refundable tax within the previous 12 months from the day on which the decision on tax refund is made.

b) In the cases not being mentioned in Point a of this Clause, the post-refund inspection shall be carried out in accordance with risk management principles within 10 years from the day on which the decision of tax refund is made.

#### **Article 42. Calculating exempted and reduced tax**

1. Taxpayers shall calculate exempted and reduced tax in the tax declaration or application for tax exemption or reduction sent to tax authorities, except for the cases in Clause 2 of this Article.

2. Tax authorities shall calculate and decide tax exemption or reduction in the following cases:

a) Exemption and reduction of excise duty, severance tax, personal income tax incurred by taxpayers that suffer from natural disasters, fire, unexpected accidents, who are not able to pay tax in accordance with law; exemption of tax on non-agricultural land, tax on agricultural land, land rent, water surface rent, registration fees incurred by taxpayers. The Ministry of Finance shall specify the tax exemption or reduction in this Point;

The exemption or reduction of land levy depends on cadastral documents enclosed with the papers proving the eligibility for exemption or reduction of land levy, and relevant documents. Tax authorities shall not issue decisions on tax exemption or reduction, but only indicate the amount of exempted or reduced land levy on the land levy notice.

- b) Tax exemption for business households and individuals that pay presumptive taxes under legislation on taxation;
- c) Exemption of severance tax on natural forest products that are legally extracted by local residents under legislation on severance tax;
- d) Other cases in which exemption and reduction of export duties or import duties are considered under legislation on export duties, import duties, or International Agreements to which Vietnam is a signatory;
- dd) Other cases defined by legislation on taxation.

#### **Article 43. The obligations and entitlements of tax authorities to the construction and management of taxpayers' information system**

1. Tax authorities are responsible for developing taxpayers' information system:

- a) Develop a system of criteria for information and database to be collected from taxpayers, tax authorities, third parties, and overseas competent authorities; standardize the forms or collect information in the form provided by information providers and information provided for overseas competent authorities in accordance with International Agreements to which Vietnam is a signatory;
- b) Develop a communication system that meet the demand for collecting, processing, storing, transmitting, using, and controlling information within tax authorities.

2. Tax authorities are responsible for managing the taxpayers' information system, in particular:

- a) Formulate a mechanism for using information about taxpayers to serve tax administration;
- b) Formulate a mechanism for providing information for state authorities serving state management, a mechanism for providing information for overseas competent authorities in accordance with the International Agreements to which Vietnam is a signatory;
- c) Manage the database and maintain the taxpayers' information system.

#### **Article 44. Responsibility to provide information of state authorities**

State authorities are responsible for providing information about taxpayers to tax authority, in particular:

1. The authorities that issue certificates of business registration, licenses for establishment and operation, certificates of investment incentives, and certificates of investments shall provide information about certificates of business registration, licenses for establishment and operation, certificates of investment incentives, and certificates of investments, or certificates of changes in business registration, decisions on merger, division, separation, dissolution, and bankruptcy of taxpayers within 07 working days from the day on which such certificates, licenses, and decisions are issued, and other information at the request of tax authorities.

2. State Treasuries shall provide information about the tax paid and refunded to tax authorities.

3. Every month or at the request of tax authorities, state authorities in charge of housing and land shall provide information about changes in the use of land and ownership of houses of the organizations, households, and individuals related to tax administration.
4. The police shall provide information about prevention and suppression of financial crimes; information about individuals that enter/exit Vietnam, temporary residents; information about hotels, motels, guesthouses; information about vehicle registration at the request of tax authorities.
5. Inspection authorities shall provide information about the conformity with legislation on taxation of taxpayers at the request of tax authorities.
6. State authorities in charge of trade shall provide information on management policies on international trading, including, export, import, temporary import for re-export, temporary export for re-import, transit, import/export authorizations, agents, processing, transit of goods of Vietnam and other countries, and other information at the request of tax authority.
7. The State bank shall cooperate with the Ministry of Finance in providing a mechanism for providing information about taxpayers, tax guarantors for tax authorities.
8. Other state authorities shall cooperate with tax authorities in providing information about taxpayers for tax authorities.
9. State authorities in charge of telecommunications infrastructure shall announce and provide information about the localities, where telecommunications infrastructure is adequate to make transactions via electronic means, to tax authorities.

**Article 45. Responsibility to provide information of relevant organizations and individuals**

1. The credit institutions defined by the Law on credit institutions shall provide information at the request of tax authorities, including:
  - a) The documents and information about transactions via bank accounts of taxpayers; information about the guarantee for taxpayers of the bank at the request of tax authorities;
  - b) Documents, payment account numbers, copies of accounting books of payment accounts, copies of international payment receipts, domestic payment receipts, and bank transfer receipts at the request of tax authorities;
  - c) Other information serving information processing and tax inspection of tax authorities at the request of tax authorities.
2. Providers of taxation services, accounting services, and independent audit companies shall provide information at the request of tax authorities.
3. The organizations and individuals that are partners or clients of taxpayers shall provide information about taxpayers at the request of tax authorities.
4. Vietnam Chamber of Commerce and Industry shall provide information about the issuance of Certificates of Origin for exported goods; information about registration and protection of intellectual property rights and technology transfers in Vietnam and overseas at the request of tax authorities.
5. Other organizations and individuals providing information at the request of tax authorities.

6. The information shall be provided or exchanged between tax authorities and organizations/individuals in writing or electronic data. Taxpayers shall not be notified when their information is provided for tax authorities, unless otherwise prescribed by law.

#### **Article 46. Collecting overseas information about tax administration**

1. tax authorities shall collect overseas information to serve tax administration, including:

- a) Origins, trading values, standards, and quality of goods;
- b) Legitimacy of documents used for tax calculation;
- c) Violations against legislation on customs and taxation;
- d) Verification of other information about taxpayers.

2. Overseas information shall be collected from:

- a) Tax authorities, other authorities of the state according to agreements on support for information provision and information exchange among countries.
- b) Relevant international organizations in accordance with International Agreements to which Vietnam is a signatory;
- c) From producers, exporters, importers indicated by tax authorities in accordance with the International Agreements to which Vietnam is a signatory;
- d) Information service providers oversea in accordance with the international laws to which Vietnam is a signatory.

3. The information stated in Points a, b, c Clause 2 of this Article must be conformable with the law of the home countries, and is one of the basis for impositions of tax and penalties for violations against the law on tax administration.

4. The Ministry of Finance shall provide guidance on collecting information overseas.

#### **Article 47. Disclosing information about taxpayers**

Tax authorities may disclose information about violations against legislation on taxation committed by taxpayers, in particular:

1. Avoiding tax, appropriating tax, illegally trading invoices, losing invoices, committing violations legislation on taxation then feeing, abetting tax avoidance, failing to pay tax on time after tax authorities has imposed penalties or enforced tax payment.
2. The violations against legislation on taxation committed by taxpayers, which affect the interests and obligation to pay tax of other organizations and individuals.
3. Failing to comply with the request of tax authorities in accordance with law, such as: refusing to provide information and documents for tax authorities, not complying with decisions on inspection and other requests made by tax authorities.
4. Obstructing tax officials and customs officials from performing their duties.
5. Other information that is disclosed in accordance with law.

#### **Article 48. Making declaration, tax payment and transactions by electronic means**

1. The taxpayers that are businesses in localities with information technology infrastructure must declare, pay tax, and make transactions with tax authorities by electronic means under legislation on electronic transactions.

When making electronic transactions, taxpayers may use electronic transaction equipment and services of lawful services providers.

2. Tax authorities shall develop and run the information technology system for making declaration, tax payment and transactions by electronic means

#### **Article 49. Cases of tax inspection at the premises of taxpayers**

1. The cases defined in Point c and Point d Clause 3 Article 77 of the Law on Tax administration.

2. The taxpayer is suspected of violating laws after analyzing and assessing the conformity with law of taxpayers.

3. The cases of inspections before tax refund and post-refund inspections.

4. The cases selected according to the plans decided by heads of superior tax authorities based on risk management for taxation.

Heads of tax authorities shall decide the inspections in the cases in Clause 2 and Clause 4 of this Article not exceeding once per year.

#### **Article 50. Post-clearance tax inspections at the premises of taxpayers**

1. Post-clearance tax inspections shall be carried out the following cases:

a) The cases defined in Point d Clause 3 Article 77 of the Law on Tax administration;

b) There are signs of violations against legislation on taxation;

c) Scheduled inspections to assess the conformity with law of taxpayers;

d) Thematic inspections decided by heads of superior tax authorities based on risk management for taxation.

2. The Director of the General Department of Customs, Directors of provincial Departments of Customs, and Directors of Sub-department of Post-Clearance Inspection shall decide tax inspections at the premises of taxpayers, perform the tasks and exercise the entitlements specified in Article 80 of the Law on Tax administration.

3. Post-clearance tax inspections at the premises of taxpayers shall be carried out within 15 working days in the cases in Point c Clause 1 of this Article, or within 05 working days in the cases in Point a, Point b, and Point d Clause 1 of this Article from the day on which the decision on inspection is announced. The decision on inspection may be extended once where necessary. The extension shall not exceed the time limit in this Clause.

4. If the taxpayer fails to comply with the decision on inspection, or fails to provide explanation or documents at the request of the inspectorate, the customs authority shall impose tax and penalties.

#### **Article 51. The right to make complaints and denunciation of taxpayers, organizations and individuals**

1. Taxpayers, organizations and individuals are entitled to request tax authorities or competent authorities to reconsider administrative decisions and administrative acts of tax authorities and tax officials when there is proof that such decisions or acts are illegal and infringe their lawful rights and interests.
2. Administrative decisions are written decisions made by tax authorities or competent persons in tax authorities, and are applicable once to one or some subjects, on a particular issue during the tax administration. Administrative decisions made by tax authorities include:
  - a) The decision on tax imposition; notice of taxation;
  - b) Decisions on tax exemption or reduction;
  - c) Decisions on tax refund; decisions on tax cancellation;
  - d) Decisions on penalties for administrative violations of legislation on taxation;
  - dd) Decisions to enforce the implementation of administrative decisions on taxation;
  - e) Other administrative decisions on taxation defined by law.
3. Administrative acts are the performance or failure to performance of tax administration tasks of tax authorities and tax officials, who are assigned to perform tax administration tasks.
4. Citizens are entitled to denounce the violations against legislation on taxation committed by taxpayers, tax authorities, tax officials, or other organizations and individuals in accordance with law.

#### **Article 52. The power of tax authorities to settle complaints and denunciation**

1. Directors of Sub-departments of Taxation, directors of Sub-department of Customs are entitled to settle complaints against their administrative decisions and administrative acts, or administrative decisions and administrative acts of the persons under their management.
2. Directors of Departments of Taxation, Directors of Departments of Customs, Directors of Departments of Post-clearance Inspection, and Directors of Departments of Smuggling Investigation are entitled to:
  - a) Settle complaints against their administrative decisions and administrative acts, or administrative decisions and administrative acts of the persons under their management;
  - b) Settle complaints that are not completely settled by Directors of Sub-departments of Taxation, directors of Sub-department of Customs.
3. The Director of the General Department of Taxation and the Director of the General Department of Customs are entitled to:
  - a) Settle complaints against their administrative decisions and administrative acts, or administrative decisions and administrative acts of the persons under their management;
  - b) Settle complaints that are not completely settled by Directors of Departments of Taxation, Directors of Departments of Customs, Directors of Departments of Post-clearance Inspection, and Directors of Departments of Smuggling Investigation.
4. The Minister of Finance is entitled to:

- a) Settle complaints against their administrative decisions and administrative acts, or administrative decisions and administrative acts of the persons under their management;
  - b) Settle complaints that are not completely settled by the Director of the General Department of Taxation and the Director of the General Department of Customs.
5. The power to settle denunciations shall comply with legislation on denunciations.

### **Article 53. Responsibility and powers of tax authorities to settle complaints and denunciations of taxation**

1. When receiving complaints and denunciations of taxations, tax authorities shall consider settling them by the deadline specified by legislation on complaints and denunciations.
2. When receiving complaints of taxation, tax authority shall request the complainer to provide documents related to the complaint. If the complainer refuses to provide documents, the tax authority is entitled to refuse to settle the complaints
3. Tax authorities shall refund the tax, late payment interest and fines that are improperly collected, and pay interest on those amounts at the rates specified in Clause 2 Article 30 of this Article within 15 days from the day on which the decision to settle complaint/denunciation is made, or the day on which the decision on settlement made by a competent authority is received.
4. If the tax payable in the decision on settlement is higher than that in the complained administrative decision, the taxpayer must pay the tax arrears within 10 days from the day on which the decision on settlement is received.

## **Chapter 3.**

### **IMPLEMENTATION**

#### **Article 45. Effect**

This Decree takes effect on September 15, 2013 and supersedes the Government's Decree No. 85/2007/NĐ-CP dated May 25, 2007 and the Government's Decree No. 106/2010/NĐ-CP dated October 28, 2010 elaborating the implementation of the Law on Tax administration.

#### **Article 55. Writing off irrecoverable tax arrears and fines incurred before July 01, 2007**

1. The cases in which tax arrears and fines are written off according to Clause 3 Article 2 of the Law on the amendments to the Law on Tax administration include:
  - a) The households and individuals who are not able to pay tax and fines incurred before July 01, 2008, and have suspended their business;
  - b) State-owned enterprises that have been dissolved under decisions of competent authorities and still owe tax and fines incurred before July 01, 2007;
  - c) State-owned enterprises that have been equitized in accordance with the Government's Decree No. 44/1998/NĐ-CP dated June 29, 1998, the Government's Decree No. 64/2002/NĐ-CP dated June 19, 2002, the Government's Decree No. 187/2004/NĐ-CP dated November 16, 2004, are issued with certificates of business registration and establishment of new legal entities, and still owe tax and fines incurred before July 01, 2007, which are not recorded as reduction in state capital during the equitization;

d) State-owned enterprises that are transferred or sold in accordance with the Government's Decree No. 103/1999/NĐ-CP dated September 10, 1999, the Government's Decree No. 80/2005/NĐ-CP dated June 22, 2005, have been issued with certificates of business registration, and still owe tax and fines incurred before July 01, 2007, which are not included to the value of the enterprises.

The Ministry of Finance shall provide guidance on the conditions for writing of tax and fines prescribed in this Clause.

2. The when the tax arrears are written off in the cases in Clause 1 of this Article, the late payment interest and fines of those tax arrears are also written off.

3. The Ministry of Finance shall specify the documentation and procedure for writing of taxes and fines in the cases in Clause 1 of this Article.

4. The power to write off tax arrears is specified in Clause 22 Article 1 of the Law on Tax administration.

#### **Article 56. Implementation**

1. The Ministry of Finance shall provide guidance on the implementation of this Decree.

2. Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of provincial People's Committees are responsible for the implementation of this Decree./

**FOR THE GOVERNMENT  
THE PRIME MINISTER**

**Nguyen Tan Dung**