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Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

GOVERNMENT QUESTIONNAIRE - VIETNAM

PRODUCT CONCERNED: CERTAIN ALUMINIUM EXTRUSIONS

INVESTIGATION PERIOD: 1 JULY 2015 TO 30 JUNE 2016

RESPONSE DUE BY: 22 SEPTEMBER 2016 - (EXTENDED TO 10 OCTOBER 2016)

CASE MANAGER: Gavin Crooks

PHONE: +61 3 8539 2418

FAX: +61 3 8539 2499

E-MAIL: operations3@adcommission.gov.au

Anti-Dumping Commission website: www.adcommission.gov.au

Return completed questionnaire Preferably via email to:
to:

operations3@adcommission.gov.au

OR mail to:

Anti-Dumping Commission
GPO Box 1632
Melbourne
Victoria 3000
Australia

Attention: Director Operations 3

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SECTION A: BACKGROUND AND GENERAL INSTRUCTIONS

1. Background

On 16 August 2016, following an application by Capral Limited (Capral), the Commissioner of the Anti-Dumping Commission (the Commissioner) initiated a dumping and countervailing investigation in respect of certain aluminium extrusions (aluminium extrusions) exported to Australia from Malaysia and the Socialist Republic of Vietnam (Vietnam).

Capral alleges that the Australian industry has suffered material injury caused by aluminium extrusions exported to Australia from Malaysia and Vietnam at dumped and subsidised prices.

Anti-Dumping Notice (ADN) 2016/77 outlining the details of the investigation and the procedures to be followed during the investigation was published on 16 August 2016 on the Anti-Dumping Commission's (the Commission) website at www.adcommission.gov.au.

2. Product concerned

The goods under consideration (the goods) i.e. the goods exported to Australia, allegedly at dumped prices and/or in receipt of subsidies, are:

“Aluminium extrusions that:

- *are produced by an extrusion process;*
- *are of alloys having metallic elements falling within the alloy designations published by The Aluminium Association commencing with 1, 2, 3, 5, 6 or 7 (or proprietary or other certifying body equivalents);*
- *have finishes being:*
 - *as extruded (mill);*
 - *mechanically worked*
 - *anodized; or*
 - *painted or otherwise coated, whether or not worked;*
- *have a wall thickness or diameter greater than 0.5 mm;*
- *have a maximum weight per metre of 27 kilograms; and*
- *have a profile or cross-section fitting within a circle having a diameter of 421 mm”.*

The goods under consideration include aluminium extrusion products that have been further processed or fabricated to a limited extent, after aluminium has been extruded through a die. For example, aluminium extrusion products that have been painted, anodised, or otherwise coated, or worked (e.g. precision cut, machined, punched or drilled) fall within the scope of the goods.

The goods under consideration do not extend to intermediate or finished products that are processed or fabricated to such an extent that they no longer possess the nature and physical characteristics of an aluminium extrusion, but have become a different product.

The following additional information assists in understanding the goods:

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Extrusion is the process of shaping heated material by forcing it through a shaped opening in a die with the material emerging as an elongated piece with the same profile as the die cavity. For greater clarity, the goods do not include goods made by the process of impact extrusion or cold extrusion.

Alloys are metals composed of more than one metallic element. Alloys used in aluminium extrusions contain small amounts (usually less than five percent) of elements such as copper, manganese, silicon, magnesium, or zinc which enable characteristics such as corrosion resistance, increased strength or improved formability to be imparted to the major metallic element, aluminium.

Aluminium alloys are produced to specifications in “International Alloy Designations and Chemical Composition Limits for Wrought Aluminum and Wrought Aluminum Alloys” published by The Aluminum Association. It includes all alloy designations - these specifications are known in the industry as “Teal Sheets”). These specifications have equivalent designations issued by other certifying bodies such as the International Standards Organization.

Effects of Alloying Elements

The properties and characteristics of aluminium, such as density, conductivity, corrosion resistance, finish, mechanical properties, and thermal expansion, are modified by the addition of alloying elements. The resulting effect depends upon the principal alloying elements used, as detailed in the table below.

Wrought Alloy Designation	Major Alloying Elements and Typical Alloy Characteristics
1xxx Series	Minimum 99% aluminium High corrosion resistance. Excellent finishability. Easily joined by all methods. Low strength. Poor machinability. Excellent workability. High electrical and thermal conductivity.
2xxx Series	Copper High strength. Relatively low corrosion resistance. Excellent machinability. Heat treatable.
3xxx Series	Manganese Low to medium strength. Good corrosion resistance. Poor machinability. Good workability.
4xxx Series	Silicon Not available as extruded products.
5xxx Series	Magnesium Low to moderate strength. Excellent marine corrosion resistance. Very good weldability.
6xxx Series	Magnesium & Silicon Most popular extrusion alloy class. Good extrudability. Good strength. Good corrosion resistance. Good machinability. Good weldability. Good formability. Heat treatable.
7xxx Series	Zinc Very high strength. Good machinability. Heat treatable.

Source: The Aluminum Association (US)

Profiles and shapes - All aluminium extrusions are produced as either hollow or solid profiles. Hollow profile extrusions generally cost more to produce and obtain higher prices than solid profile extrusions. Extrusions are often produced in standard shapes such as bars, rods, pipes and tubes, angles, channels and tees but they are also produced in customised profiles.

Finishes - In addition to ‘as extruded’ or mill finish, extrusions can be finished mechanically by polishing, buffing or tumbling. Extrusions can have anodized finishes applied by means of an electro-chemical process that forms a durable, porous oxide film on the surface of the aluminium. Also, they can be finished by painting with liquid or powder coatings utilising an electrostatic application process.

For the purposes of this application, aluminium extrusions are further classified into four “finish” types:

- Mill Finish - Plain metal finish, uncoated (i.e. “as extruded from the die”);
- Anodised - Surface converted to aluminium oxide (by electrolysis) and may be coloured by electrolytic or chemical dye means;
- Powder Coated - Charged powder particles are sprayed and adhere to electrically grounded surfaces, heated and fused into a smooth coating in a curing oven; and
- Painted or Other Finish - Painted or finished in other surface applications.

Size range - The ability to produce the full range of profiles is determined by the extrusion and ancillary equipment.

“Working” extrusions includes any operation performed other than mechanical, anodized, painted or other finishing, prior to utilisation of the extrusion in a finished product.

Standards - Aluminium extrusions are manufactured to a variety of Australian and International standards. Products exported to Australia are often claimed to comply with one or more of the following standards:

- ASTM B221M-88 (USA);
- BS 1474:1987 (UK); and
- GB 5237.1-2000 (China).

The most common Australian / New Zealand standard is AS/NZ 1866:1997, which specifies requirements for aluminium and aluminium alloy extruded rod, bar, solid and hollow products for general engineering purposes.

The table below provides examples of the coverage of the goods and like goods (and intended end-use applications) and will be used for this investigation. Examples of the goods and like goods are outlined in columns 1-4 and non-subject goods are outlined in columns 5 to 7.

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< GUC >				< Non GUC >		
1	2	3	4	5	6	7
Aluminium extrusions	Aluminium extrusions with minor working	Aluminium extrusions that are parts intended for use in intermediate or finished products	Aluminium extrusions that are themselves finished products	Unassembled products containing aluminium extrusions, e.g. 'kits' that at time of import comprise all necessary parts to assemble finished goods	Intermediate or partly assembled products containing aluminium extrusions	Fully assembled finished products containing aluminium extrusions
< Examples >						
Mill finish, painted, powder coated, anodised, or otherwise coated aluminium extrusions	Precision cut, machined, punched or drilled aluminium extrusions	Aluminium extrusions designed for use in a door or window	Carpet liner, fence posts, heat sinks	Shower frame kits, window kits, unassembled unitised curtain walls	Unglazed window or door frames	Windows, doors

The goods are normally classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

Tariff classification (Schedule 3 of the Customs Tariff Act 1995)			
<i>Tariff code</i>	<i>Statistical code</i>	<i>Unit</i>	<i>Description</i>
7604.10.00	06	Kg	Non alloyed aluminium bars, rods and profiles
7604.21.00	07	Kg	Aluminium alloy hollow angles and other shapes
7604.21.00	08	Kg	Aluminium alloy hollow profiles
7604.29.00	09	Kg	Aluminium alloy non hollow angles and other shapes
7604.29.00	10	Kg	Aluminium alloy non hollow profiles
7608.10.00	09	Kg	Non alloyed aluminium tubes and pipes
7608.20.00	10	Kg	Aluminium alloy tubes and pipes
7610.10.00	12	Kg	Doors, windows and their frames and thresholds for doors
7610.90.00	13	Kg	Other

3. Investigation period

The existence and amount of any dumping and subsidisation in relation to aluminium extrusions exported to Australia from Malaysia and Vietnam will be determined on the basis of an investigation period of 1 July 2015 to 30 June 2016 (the investigation period).

The Commission will examine details of the Australian market from 1 July 2012 for injury analysis purposes.

4. Purpose of this questionnaire

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The purpose of this questionnaire is to assist the Commission to obtain information from the Government of Vietnam (GOV) it considers necessary for the investigation into countervailable subsidies received by Vietnamese aluminium extrusion exporters.

Please note that the subsidy/countervailing sections of this questionnaire focus on the 3 programs alleged in the application. The Commission may also investigate any additional subsidy program(s) if additional information becomes available.

Any additional questions will be posed to the GOV using supplementary questionnaires.

A separate questionnaire has been sent to identified Vietnamese exporters of aluminium extrusions. The exporter questionnaire also requests information on subsidies.

5. Response to this questionnaire

The GOV may elect not to respond to and complete the questionnaire.

However, if the GOV does not respond the Commission may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry).

Therefore, it may be in the GOV's interests, and the interest of Vietnamese exporters of aluminium extrusions, to provide a complete response.

If the GOV elects to respond to this questionnaire, the response is due by **22 September 2016**.

6. If you decide to respond

Should the GOV elect to provide a response to this questionnaire, please note the following.

Confidential and non-confidential versions

If the GOV elects to respond to this questionnaire, you are required to lodge a confidential and a non-confidential version of your submission by the due date.

In submitting these versions, please ensure that each page of the information you provide is clearly marked either “**IN-CONFIDENCE**” or “**NON-CONFIDENTIAL**” in the header and footer.

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the Public Record, which all interested parties can access.

Your non-confidential submission must contain sufficient detail to allow a reasonable understanding of the substance of the confidential version. If, for some reason, you cannot produce a non-confidential summary, contact the investigation case officer (see contact details on Page 1 of this questionnaire).

Declaration

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You are required to make a declaration that the information contained in the GOV's response is complete and correct. You must return the signed declaration of an authorised GOV official at Section D of this questionnaire with the GOV's response.

Coordination of responses

In completing the questionnaire, if a question requires information from other authorities (e.g. provincial or local governments, state owned entities, etc.) please forward the questions to the correct source.

However, it is the responsibility of the GOV to ensure that a full and complete response to all sections of the questionnaire is submitted, and that responses from all levels of government, agencies and/or other applicable entities are collated and coordinated in the one response.

Consultants/parties acting on your behalf

If you intend to have another party acting on your behalf please advise the Commission of the relevant details.

The Commission will generally require a written authorisation from the GOV for any party acting on its behalf.

Provision of documents

Numerous documents are requested from the GOV throughout this questionnaire. In many cases, the titles or description of these documents within the questionnaire may not correlate to the official title that the GOV has granted each document, but is rather a descriptor of the document to the best of the Commission's knowledge.

If the listed title is unknown to the GOV but a document that appears to be similar to the requested document, relates to a similar topic area, or otherwise would be considered to contain useful information is identified by the GOV, please provide this document.

Further, when providing requested documents, please indicate whether the documents:

- are current/in force;
- were current/in force during the investigation period; or
- have been repealed, revised or superseded.

Where the documents have been repealed, revised or superseded, where applicable:

- indicate when this revision occurred;
- provide any notice of repeal;
- provide the revised version;
- provide the document that supersedes the requested document; and
- indicate whether the revised version was in force during the investigation period.

Lodgement

You may lodge your response by mailing it to the address for lodgement shown on the front cover of this questionnaire.

Alternatively you are welcome to lodge your response by email. The email address for lodgement is shown on the front cover of this questionnaire. If you lodge by email you are still required to provide a confidential and a non-confidential version of your submission by the due date.

In completing any lists of names and addresses requested throughout this questionnaire, electronic responses in a Microsoft Excel spreadsheet would be preferred. If lodging your response in hard copy, please include these lists in electronic format.

General matters

Responses to questions should:

- be as accurate and complete as possible, and attach all relevant supporting documents,¹ even where not specifically requested in this questionnaire;
- be in English (with fully translated versions of all requested and other applicable documents submitted);
- list your source(s) of information for each question;
- identify all units of measurement used in any tables, lists and calculations;
- show any amounts in the currency in which they were originally denominated.

Please note that references throughout this questionnaire to companies benefiting from a particular program should be read as including any parent and associated companies, and, if the company has been subject to merger or acquisition, any former associated companies or former parent companies.

Please note that answers such as "Not Applicable", or an answer that only refers to an exhibit or an attachment without any explanation, may be considered to be inadequate by the Commission. We therefore suggest that in answering the questions you outline the key elements of your response in the primary submission document, and not merely refer to supporting documents the relevance and reliability of which has not been explained in your answer.

7. Clarification

If you have any difficulties in completing the questionnaire, or require clarification on any questions asked, contact the case manager as soon as possible (contact details are provided on Page 1 of this questionnaire).

¹ This includes, but is not limited to, any laws, decrees, regulations, statements of policy, or other administrative guidelines. In each case, include any legislative history as well as other descriptive materials and explanations of the criteria underlying the decisions relating to each of the programmes mentioned in this questionnaire. If applicable, a sample of each of the applications that a company must complete to participate in each of the programs should also be included.

8. Future questions and verification

The Commission may decide to visit the GOV to examine records and to verify the information provided. It is common practice for Commission officers to visit government officials, exporters and manufacturers of the subject goods, in order to verify the information submitted. You will be contacted in advance of such a meeting in order to make arrangements.

A complete response, including all of the documentation requested, must be submitted to the Commission before a verification meeting will be considered.

If a verification visit is undertaken the key government officials involved in preparing the response, and those who have knowledge of the source documentation and the information contained therein, should be available to meet with Commission officers and to provide additional clarification and explanation, as required.

If verification meetings are unreasonably delayed, cancelled, or otherwise hindered by the GOV, the assessment of a particular market situation and the assessment as to the amount of countervailable subsidy may be based on the facts available to the Commission.

The purpose of the verification meeting will be to verify the information provided in your questionnaire response. It is not intended to be a second opportunity for the GOV to provide new or additional information. Accordingly, it is important that your response be as complete and accurate as possible.

SECTION B: GENERAL QUESTIONS

- B1** Identify the administration co-ordinating the response to this questionnaire and provide the names and contact details of the official(s) (including email addresses). Please note that the Commission may have further inquiries concerning the questionnaire response and a contact must be available to respond to any further information requests.

ANSWER:

The Government of Vietnam (“GOV”) provides below the contact information of the officials in charge of coordination in this case:

- **Ms Pham Huong Giang**

Head of Trade Remedy Compliance Division, Vietnam Competition Authority, Ministry of Industry and Trade

Email: giangphg@moit.gov.vn

- **Ms Nguyen Hang Nga**

Deputy Head of Trade Remedy Compliance Division, Vietnam Competition Authority, Ministry of Industry and Trade

Email: NgaNH@moit.gov.vn

In addition, the GOV provides contact of the legal representative for the GOV in this investigation as follows:

- **Mr John Bracic**

Director – J.Bracic & Associates

Email: john@jbracic.com.au

- B2** Describe the nature and structure of the aluminium extrusions industry and market sector in Vietnam. Also describe the nature and structure of the aluminium industry and market sector in Vietnam.

Without limiting your response, include information concerning the size and output (value and quantity) of these industries, the extent of vertical integration in the industries, the extent of the reliance on imported aluminium, and government involvement at each level of the industry, the extent of any restrictions, quotas or limits for the production volumes in these industries.

ANSWER:

The aluminium extrusion industry of Vietnam is currently limited to the processing of aluminium ingots, coils and billets into extrusion and post-extrusion (i.e. anodizing or coating the product) products.

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Almost all aluminium materials including ingots, coils and billets are import-sourced from China, Australia and ASEAN countries. Based on the government's estimation, Vietnam consumes around 500,000 – 600,000 tons of aluminium materials per year. The only project to produce aluminium ingots with a capacity of 300,000 tons per year by Tran Hong Quan Metallurgy Co., Ltd is expected to start operation in 2017.

Aluminium extrusion products are sold in Vietnam and exported to foreign countries including Australia, the U.S., Canada and ASEAN countries. In Vietnam, most of the aluminium extruded products are used in construction purposes such as making doors, windows, rolling doors, separators or interior decoration.

The GOV does not have statistics on the quantity and value of aluminium extrusions. However, in terms of policy, there are no restrictions, quotas or limits for the production volumes in these industries.

B3 Are any of the companies listed in **Appendix A** located in an area or economic zone which entitles them to preferential tax or other preferential policies provided by the GOV² including those provided by regional, provincial or municipal authorities?

If so identify which particular zone or area the company under investigation is located in.

ANSWER:

Please refer to Exhibit 1 which identifies the location of each company listed in Appendix A and whether such location entitles it to preferential tax and duty policies by the GOV.

B4 Provide a list of all manufacturers/producers of aluminium³ in Vietnam that produced aluminium during the investigation period. If possible, please provide this listing in Microsoft Excel format. Please see the GOV Questionnaire spreadsheet provided with this questionnaire.

This listing will be referred to as 'your response to Question B4' throughout this questionnaire.

Within this list, indicate the following:

- the business' address (including the city/town and province);
- the function and type of business;
- the ownership structure of the business, including indirect ownership through associated companies (i.e. State Invested Enterprises (SIE)⁴,

² Refer to this questionnaire's Glossary of Terms for a definition of the GOV.

³ Throughout this questionnaire, aluminium has been used to refer to including primary aluminium, electrolytic aluminium, secondary aluminium, scrap aluminium, and aluminium cast into billets of aluminium alloy or alone.

⁴ Refer to this questionnaire's Glossary of Terms for a definition of the SIE

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private, co-operative, Foreign Invested Enterprise (FIE)⁵ or joint venture);

- if the business is not an SIE, whether it is otherwise associated with the GOV;
- whether the business is a manufacturer of aluminium extrusions and whether it produces ingot, billet, or both;
- total production quantity of aluminium extrusions by the business during the investigation period;
- Is the GOV a shareholder in the business? If so, the percentage of GOV holdings;
- If there is GOV representation in the business; and
- The value of total benefit received annually.

For all companies that are SIEs, indicate the percentage ownership held by the GOV during the investigation period.

For all companies that are otherwise associated with the GOV, explain this association as it was during the investigation period.

ANSWER:

The GOV does not have a full list of all aluminium and aluminium extrusions producers in Vietnam. In an attempt to answer the Commission's question, the GOV provides Exhibit 2 which identifies various aluminium extrusion producers who are known to the GOV.

In addition, although the GOV does not have a full list of those producers, the GOV confirms that during the POI, there were no state-owned companies operating in the field of producing and selling aluminium and aluminium extrusion products and the GOV has not had any association under any forms with aluminium extrusion producers.

B5 It is the Commission's understanding that within Vietnam there are various zones, areas, or other regions that encourage the operations of industries/enterprises located within that region and/or entitle/facilitate entities to access differential treatment (this may include preferential tax programs or other preferential policies).

Provide:

- a listing of the names of all such zones, areas, or other regions in Vietnam;
- an explanation of each such type of zone, area or other region in Vietnam; and
- a listing and explanation of what location in each zone makes businesses eligible for (including any GOV assistance or differential treatment).

⁵ Refer to this questionnaire's Glossary of Terms for a definition of the FIE

ANSWER:

During the POI, there are two main types of region within Vietnam that encourage the operations of industries/enterprises located within and may entitle those entities to access different treatment, namely:

- (i) Region of socio-economic difficulties**
- (ii) Region of exceptional socio-economic difficulties**

As read from the title of these two regions, socio-economic conditions of an area including geographical location and features, natural resources, infrastructure, population or level of economic and education development, living and social benefit standards are the decisive and objective criteria to classify such area into the region of socio-economic difficulties or exceptional socio-economic difficulties.

The intention behind this classification is to facilitate industrial, economic and social development of less advantaged regions, to avoid problems relating to overpopulation, environment or social benefit burden in big cities and thereby to create hubs for industrial and commercial activities which support the development of Vietnam in a balanced way all over the country.

For purpose of management and implementation of differential policies, the GOV identifies and informs which geographical areas are classified into regions of socio-economic difficulties and regions of exceptional socio-economic difficulties in its decree applicable during a certain period of time.

During the POI, the only 3 applicable decrees are:

- Decree 218/2013/ND-CP implementing the Law on Corporate Income Tax. An appendix to Decree 218 identifies a list of regions subject to corporate income tax preferences including (i) all regions of socio-economic difficulties and (ii) all regions of exceptional socio-economic difficulties which are entitled to income tax benefits under the Law on Corporate Income Tax. This appendix also serves as the basis to grant import duty benefits as provided under Article 12.18 of Decree 87/2010/ND-CP implementing the Law on Import Duty and Export Duty and Article 103.7 of Circular 38/2015/TT-BTC on customs procedures, customs supervisions and inspection, export tax, import tax, and tad administration applied to exported and imported goods.⁶ Exhibit 3 provides the Appendix to Decree 218/2013/ND-CP. Please also note that the Appendix to Decree 218/20013/ND-CP was valid until 26 December 2012 only. Since 27 December 2012, this Appendix has been replaced by Appendix II to Decree 118/2015/ND-CP**

⁶ Pursuant to Article 16.18 of Decree 87, the appendix to Decree 124/2008/ND-CP dated 11 December 2008 identifies regions of import duty preferences which include regions of socio-economic difficulties and regions of exceptional socio-economic difficulties. However, Decree 124/2008/ND-CP was replace by Decree 218/2013/ND-CP which came into effect in 15 February 2014, the appendix to Decree 124 is also replaced by the appendix to Decree 218. As such, the appendix to Decree 218 was applicable during the POI with regards to regions of import duty preferences.

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- Decree 108/2006/ND-CP implementing the Law on Investment 2005 effective from October 2006 to 26 December 2015. Appendix II to this Decree identifies (i) all regions of socio-economic difficulties and (ii) all regions of exceptional socio-economic difficulties which are entitled to investment preferences such as non-agricultural land tax benefits. Exhibit 4 provided Appendix II to Decree 108/2006/ND-CP
- Decree 118/2015/N-CP implementing the Law on Investment 2015 effective from 27 December 2015 which replaced Decree 108/2006/ND-CP. Appendix II to this Decree replaces Appendix II to Decree 108/2006/ND-CP. Exhibit 5 provided Appendix II to Decree 118/2015/ND-CP

It is noted that within Appendix II to Decree 108 and Appendix II to Decree 118, industrial zones, export processing zones established by a decision of the Prime Minister are classified as regions of socio-economic difficulties while economic zones and high-technology zones are classified as regions of exceptional socio-economic difficulties.

The development of these zones is a key element to the country's overall development strategy and its desire to move into a more industrialized economy. While individual zones have fixed geographical boundaries, in fact as of 2016 there are 220 industrial and export processing zones all over 52 out of 63 provinces of Vietnam. As such, zoning is not limited geographically since there are zones in virtually all provinces and cities in Vietnam. In addition to promoting the broader objectives of economic development and providing employment, the zones serve several other purposes which are viewed as important to orderly and sustainable development.

The most important of these is to avoid environmental degradation in high density urban and residential areas by encouraging industrial development in areas which, while often close to large urban areas, are separated from high density urban and residential areas. In effect, the use of industrial zones acts much the same as zoning ordinances operate throughout the world by designating certain areas for industrial use and other areas for commercial and residential use.

A second objective is to promote infrastructure development. Absent infrastructure, it is impossible to achieve development because the infrastructure is essential to supporting that development. While the State itself, often using official development assistance (ODA), is normally responsible for infrastructure such as highways, bridges, waste treatment plants, ports, and other infrastructure, the ability of the state to finance massive infrastructure development is limited by its resources. With a per capita GDP of around \$1,600, the GOV does not have the resources to develop infrastructure on the scale and in the time-frame required to achieve sustained high levels of economic growth. Zoning program shifts the financial burden of developing industrial infrastructure for manufacturing plants from the GOV to infrastructure development companies. In return, the infrastructure development companies are allowed to provide services to manufacturing plants in the zones. In addition, they are entitled to certain investment preferences such as income tax benefits, import duty preferences or non-agricultural tax benefits. Manufacturing companies who pay a higher cost of accessing utilities in those zones as opposed to the cost of locating outside those zones are also granted with similar preferences.

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B6 Are any of the entities listed in **Appendix A** located in an area, zone or other region listed in your response to B5 above? If so identify which entities and which particular zone or area the entity is located in.

ANSWER:

Please refer to Exhibit 1. In this regard, the GOV notes that [Entity] does not produce and export aluminium extrusion products.

B7 Provide the names and addresses of all national, provincial and regional producer organisations that represent the interests of aluminium extrusions and aluminium manufacturers and traders in Vietnam.

ANSWER:

The Government of Vietnam is not aware of any associations or organizations that represent the interests of aluminium extrusions manufacturers and traders in Vietnam

B8 Specify and provide supporting documentation for the standard corporate tax rate during the investigation period for:

(a) companies that manufacture aluminium extrusions;

ANSWER:

During the investigation period, the standard corporate income tax is governed by the Law Amending and Supplementing a number of articles of Law on Corporate Income Tax 2008 (the Amended Law 2013) and the Law on Amendments to Tax law (the Amending Law 2014). Pursuant to Article 1.10, the standard tax rate applicable during the POI is as follows:

- **22% applicable from 1 July 2015 to 31 December, 2015**
- **20% applicable from 1 January 2016 to 30 June, 2016.**

The standard tax rate applies to all enterprises regardless of whether they are manufacturers or traders and regardless of whether their products are aluminium or aluminium extrusions.

(b) companies that trade in aluminium extrusions;

ANSWER:

Please refer to the response to question (a) above.

(c) companies that manufacture aluminium;

ANSWER:

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Please refer to the response to question (a) above.

(d) companies that trade in aluminium.

ANSWER:

Please refer to the response to question (a) above.

B9 Specify and provide supporting documentation for the corporate tax rates applicable in all provincial or local jurisdictions in Vietnam for those types of companies listed in (a) to (d) of Question B8 above.

ANSWER:

Exhibit 6 provides the Law Amending and Supplementing a number of articles of Law on Corporate Income Tax 2008 (the Amended Law 2013) and the Law on Amendments to Tax Law No 71/2014/QH13 (the Amending Law 2014)

SECTION C: SUBSIDIES

INVESTIGATED PROGRAMS

The following are programs that the Commission is currently investigating:

Program number	Program name	Program type
1	Preferential Import Tariffs	Tariff
2	Corporate tax incentives	Tax
3	Incentives on non-agricultural land tax	Tax

Note: the above titles of programs are to the best of the Commission's knowledge and in some cases may simply be descriptions of the program. Consequently, the below titles may not exactly reflect any official titles that the GOV has in place.

ANY OTHER PROGRAM NOT PREVIOUSLY ADDRESSED

If the GOV, any of its agencies, or any other authorised non-governmental body, provides any other assistance programs not previously addressed (including market development assistance programs or any domestic support programs related to the manufacture of subject goods) to manufacturers of aluminium extrusions in Vietnam, identify these programs.

Such assistance programs are those that constitute a subsidy as defined in the Glossary of Terms.

Please provide the information requested in the following Section C-1 for each program identified above and any additional programs you have identified. In addition, please respond to the program-specific information requested.

PART C1 - GENERAL QUESTIONS

For **each of the 3 programs** identified above, and any other additional programs the GOV identifies, answer the following questions.

Note: In responding to the questions in this part you are required to provide information on each program, regardless of the year the benefit was granted by the GOV or the year that the benefit was received by the recipient company, as well as those further identified by the GOV, where the program benefits impact on the production and sale of aluminium extrusions and aluminium during the investigation period.

PROGRAM 1: PREFERENTIAL IMPORT TARIFFS

C1.1 Provide details of the program including the following.

- (a) Title of the program.
- (b) Policy objective and/or purpose of the program.

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- (c) Legislation under which the subsidy is granted.
- (d) Nature or form of the subsidy.
- (e) When the program was established.
- (f) Duration of the program.
- (g) How the program is administered and how it operates.
- (h) To whom and how the program is provided.
- (i) The eligibility criteria in order to receive benefits under the program.

ANSWER:

Import duties benefits include duty exemption and duty reduction. During the period of investigation (“POI”), duty exemption is provided under Article 16 of the Law on Import Duty and Export Duty, No. 45/2005/QH11 of June, 14th 2005 and further elaborated by Article 12 of Decree 87/2010/ND-CP, detailing the implementation of a number of articles of the Law on Import Duty and Export Duty. Meanwhile, import duty reduction is provided under Article 18 of the Law on Import Duty and Export Duty, No. 45/2005/QH11 of June, 14th 2005 and further elaborated by Article 14 of Decree 87/2010/ND-CP, detailing the implementation of a number of articles of the Law on Import Duty and Export Duty.

The Law on Import Duty and Export Duty was valid between 1 January 2006 and 31 August 2016. Decree 87/2010/ND-CP was valid between 1 October 2010 and 31 August 2016.

With respect to duty exemption, Article 12 of Decree 87 identifies various cases where the importer is entitled to import duty exemption as well as eligibility criteria for each case of exemption. In particular, Article 12.6 of Decree 87 provides duty exemption for imported goods (e.g. equipment or machinery) to create fixed assets for investment projects into sectors of duty preferences as listed in Appendix 1 to Decree 87 or for investment projects implemented in regions of duty preferences. Pursuant to Article 12.18, regions of duty preferences are identified in the Appendix to Decree 218/2013/ND-CP, as once mentioned in the response to Question B5. Since 27 December 2015, Appendix 1 to Decree 87 and the Appendix to Decree 118 have been replaced by Appendix 1 and Appendix 2 to Decree 118/2015/ND-CP.

Therefore, as long as the importer’s investment project falls into Appendix 1 to Decree 87 or the Appendix to Decree 218, that importer is entitled to receive the duty exemption for the imported goods to create fixed assets. The duty exemption is administered by Circular 38/2015/TT-BTC effective on 1 April 2015. Accordingly, imported goods of the eligible projects must also satisfy requirements under Article

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103.7 of Circular 38. For example, pursuant to Article 103.7 (a), imported equipment and machinery must be in accordance with the investment sector, objective or scale and other conditions of fixed assets as provided under Circular 45/2013/TT-BTC.

Article 104 of Circular 38/2015/TT-BTC provides necessary procedures for the import duty exemption. Accordingly, eligible importers must register with the provincial Custom with a list of imported goods subject to the duty exemption prior to their importation. Importers must take responsibility for their registration while the relevant custom authority is obliged to receive and examine the registration, as provided under Article 104.8 and Article 104.9 of Circular 38.

With respect to duty reduction, pursuant to Article 14 of Decree 87, imported goods which are damaged or lost in the course of customs supervision, which is certified by competent assessment agencies or organizations, may be considered for duty reduction in proportion to their actual loss or damage. Duty reduction as such is not limited to and not conditional on any enterprise of any sector or any region.

It is also important to note that Article 16.3 of Decree 87 allows the continuation of application of import duty preferences for investment projects issued with the Investment License before this Decree's effective date as of 1 October 2010 if those preferences are more advantaged than the preferences under Decree 87. In this investigation, several companies listed in Appendix A were established before 1 October 2010. Due to Article 16.3 of Decree, import duty preferences which were granted to them are not based on Decree 87, but under regulations which were valid prior to the effect of Decree 87. The GOV provides details on the import duty preferences received by each company listed in Appendix A in the response to Question C.1.6 below.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

ANSWER:

Exhibit 7 provides the Law on Import Duty and Export Duty the Law on Import Duty and Export Duty, No. 45/2005/QH11 of June, 14th 2005 and Decree 87/2010/ND-CP, detailing the implementation of a number of articles of the Law on Import Duty and Export Duty.

C1.3. Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

ANSWER:

Exhibit 8 provides Circular 38/2015/TT-BTC.

C1.4 Identify the GOV department or agency administering the program.

ANSWER:

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees.

The provincial custom authority of the place where the importer implements the project or where the importer is located or which is closest to the importer's location administers the program.

Exhibit 1 identifies specific provincial custom authority in charge of each company listed in Appendix A.

C1.5 Identify and explain the types of records maintained by the relevant government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

ANSWER:

The provincial custom authority maintained import declaration filed by importers.

C1.6 Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

ANSWER:

During the POI, no companies listed in Appendix A applied for, accrued or received benefits under the program.

C1.7 Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no application process and the importer is not required to file any application for receiving import duty exemption. For purpose of management,

Article 104 of Circular 38/2015/TT-BTC effective from 1 April 2015 requires the importer to submit a registration which identifies the imported goods to create its fixed assets to the relevant provincial custom authority. Exhibit 9 provides a blank registration form (Form 14/CVDKDDMMT/TXNK).

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.
- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.
- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.
- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

ANSWER:

As explained in the response to Question C.1.1, the eligibility for the benefits of the program is provided in Appendix 1 to Decree 87/2010/ND-CP and the Appendix to Decree 218/2013/ND-CP. Prior to 27 December 2015, Appendix 1 to Decree 87 identifies sector of investment projects subject to the exemption while the Appendix to Decree 218 identifies regions subject to the exemption. Since 27 December 2015, Appendix 1 to Decree 87 and the Appendix to Decree 118 have been replaced by Appendix 1 and Appendix 2 to Decree 118/2015/ND-CP.

Accordingly, eligibility for the benefits and actual use of import duty exemption is not contingent on export or the use of domestic over imported goods

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (a) Describe the criteria governing the size of the benefit provided.

ANSWER:

There is no criterion governing the size of the benefit. The amount of duty exemption is exactly the amount of duty that the importer should have paid otherwise.

- (b) Provide a copy of any law, regulation or other official document detailing these criteria.

ANSWER:

Please refer to Exhibit 7 and 8

- (c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

ANSWER:

As indicated in the response to Question C.1.1, eligible importers must fulfil the procedures under Article 104 of Circular 38/2015/TT-BTC in order to receive the exemption.

- (d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

ANSWER:

The amount of the benefit is determined exclusively by criteria set out in Decree 87/2010/ND-CP and Circular 38/2015/TT-BTC. The provincial custom authority who administers this program must also follow these regulations

- (e) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

There is not contractual agreement between the GOV and the companies received benefits under this program

C1.10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

ANSWER:

As indicated in the response to Question C1.1, as long as the importer's investment project falls into either Appendix 1 to Decree 87/2010/ND-CP (or Appendix 1 to Decree 118/2015/ND-CP since 27 December 2015) or the Appendix to Decree 218/2013/ND-CP (or Appendix 2 to Decree 118/2015/ND-CP since 27 December 2015) and fulfils procedures under Article 104 of Circular 38/2015/TT-BTC, such importer receives the duty exemption.

The Government of Vietnam does not have any statistics of enterprises or regions that received the import duty exemption under this program, and thus cannot provide to the Commission. However, it is important to note that as the eligibility is either Appendix 1 to Decree 87 (which identifies sectors of duty exemption) or the Appendix to Decree 218 (which identifies regions of duty exemption), it would be

the case where all enterprises of a sector regardless of their location are eligible and all enterprise in a certain region regardless of their sectors are eligible.

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

ANSWER:

The Government of Vietnam does not have such statistics.

C1.12 Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

ANSWER:

The Law on Import Duty and Export Duty 2005 and Decree 87/2010/ND-CP ceased their effects on 1 September 2016 as they were replaced by the Law on Import Duty and Export Duty 2016. As such, the program was already terminated. The last date that a company could receive benefits under this program is 31 August 2016.

However, the Law on Import Duty and Export Duty 2016 contains a grandfather clause in Article 22 which allows enterprises who are receiving benefits under the old law and regulations to continue receiving those benefits if those benefits are more advantaged than those granted by the new law.

C1.13 If assistance under the program was provided by an entity other than a national, state or local government entity, please respond to the following questions:

- (a) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a government corporation, government lending institution, commercial entity?
- (b) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (c) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (d) Has the entity received any direct or indirect funding or support from a government entity? Please specify if the government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (e) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (f) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect government ownership during the

investigation period (and for each year in which the assistance was provided).

- (g) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (h) What are the core activities and functions of each entity that provided the assistance under the program?
- (i) Explain why the assistance under this program was provided by this entity rather than directly by the government.

ANSWER:

This question is not applicable.

PROGRAM 2: CORPORATE INCOME TAX

C1.1 Provide details of the program including the following.

- (j) Title of the program.
- (k) Policy objective and/or purpose of the program.
- (l) Legislation under which the subsidy is granted.
- (m) Nature or form of the subsidy.
- (n) When the program was established.
- (o) Duration of the program.
- (p) How the program is administered and how it operates.
- (q) To whom and how the program is provided.
- (r) The eligibility criteria in order to receive benefits under the program.

ANSWER:

During the POI, corporate income tax and tax benefits are governed by the Law on Corporate Income Tax 2008 and the Law Amending and Supplementing a number of articles of the Law on Corporate Income Tax 2008 (“the Amending Law 2013), the Law on Amendments to Tax Law No 71/2014/QH13 (the Amending Law 2014), Decree 218/2013/ND-CP effective from 15 February 2014 and Decree 12/2015/ND-CP effective from 1 January 2015. According to Article 1.6 of the Amending Law 2013, the standard tax rate applicable during the POI is as follows:

- **22% applicable from 1 July 2015 to 31 December, 2015**
- **20% applicable from 1 January 2016 to 30 June, 2016.**

Corporate income tax benefits including preferential income tax rate, tax exemption and tax reduction are governed by Article 1.7 of the Amending Law 2013 and Article 1.7 of the Amending Law 2014. Accordingly, there are 03 preferential tax rates such as 20%, 15% and 10%. Since 1 January 2016, the preferential tax rates of 20% is adjusted to 17% as provided under Article 1.7 of the Amending Law 2013.

Article 16 provides cases where tax payers are entitled to tax exemption and reduction, as follows:

“1. Tax exemption for 4 years, reduction of 50% of tax payable for the next 9 years for:

a) Income of enterprise from performing new investment projects is specified in Clause 1, Article 15 of this Decree;

b) Income of enterprise from performing new investment projects in the field of socialization shall comply in difficult or extremely difficult socio-economic conditions specified in the Appendix to this Decree.

2. Tax exemption for 4 years, reduction of 50% of tax payable for the next 5 years for enterprise’s income from performing new investment projects in the field of socialization in the areas not in the list of difficult or exceptionally difficult socio-economic conditions specified in the Appendix to this Decree.

3. Tax exemption for 2 years, reduction of 50% of tax payable for the next 4 years for incomes from performing new investment projects specified in Clause 3, Article 15 of this Decree and enterprise’s income from performing new investment projects in industrial parks (except for industrial parks located in the areas with advantageous socio-economic conditions)”

Tax exemption or reduction is calculated continuously from the first year of taxable income. With respect to eligibility for tax exemption and reduction, tax payers must have an investment project falling into sectors as specified in Article 15 or in regions as specified in the Appendix to this Decree.

Tax payers rely on the relevant tax law and regulations against their practical situation in order to calculate the amount payable to the state budget, declare the tax in the tax returns and pay the tax in accordance with the tax returns. Tax payers must take responsibility for the accuracy and completeness of the tax returns. The provincial tax departments revise and examine the tax returns filed by the payers. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

It is also important to note that Article 20.2 of Decree 218 allows the continuation of the application of corporate income tax preferences granted before the Decree’s effective date as of 15 February 2014 if those preferences are more advantaged than those granted under Decree 218. In this investigation, several companies listed in Appendix A were established before 15 February 2014. Due to Article 20.2 of Decree, corporate income tax preferences which were granted to them are not based on Decree 218, but under regulations valid prior to the effect of Decree 218. The GOV provides details on the corporate income preferences for each company

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listed in Appendix A in the response to Question C.1.6 below.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

ANSWER:

Exhibit 10 provides the Amended Law 2013, the Law on Amendments to Tax law (the Amending Law 2014), Decree 218/2013/ND-CP and Decree 12/2015/ND-CP.

C1.3. Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

ANSWER:

Please refer to Exhibit 10

C1.4 Identify the GOV department or agency administering the program.

ANSWER:

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees.

Provincial tax departments are in charge of receiving and examining tax declarations of the payers.

C1.5 Identify and explain the types of records maintained by the relevant government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

ANSWER:

The provincial tax department maintained the tax returns filed by the payer.

C1.6 Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

ANSWER:

Among those companies listed in Appendix A, the following aluminium extrusion producers receive corporate income tax benefits:

1. [REDACTED] [Entity]

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[CONFIDENTIAL REVENUE AND TAXATION INFORMATION
RELATING TO ENTITY]

2. [REDACTED] [ENTITY]

**[CONFIDENTIAL REVENUE AND TAXATION INFORMATION
RELATING TO ENTITY]**

3. [REDACTED] [ENTITY]

[CONFIDENTIAL REVENUE AND TAXATION INFORMATION
RELATING TO ENTITY]

4. [REDACTED] [ENTITY]

**[CONFIDENTIAL REVENUE AND TAXATION INFORMATION
RELATING TO ENTITY]**

C1.7 Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.
- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no application and approval process. Enterprises rely on the applicable tax law and regulations to identify the benefits they are entitled to, declare the benefits in the tax returns, and pay the income tax in accordance with the declaration. They take responsibility for the accuracy and completeness of the tax returns they file with the tax authority. The provincial tax departments revise and examine the tax returns and tax payments. When a tax payer is found at fault by

the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.
- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.
- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.
- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

ANSWER:

As explained in the response to Question C.1.1, eligibility for the benefits of the program is provided in Article 15 and 16 of Decree 218/2013/ND-CP, which identifies sectors of income tax preferences within these articles and regions of income tax preferences in the Appendix to Decree 218/2013/ND-CP and Appendix 1 to Decree 118/2015/ND-CP since 27 December 2015. Accordingly, eligibility for the benefits and actual use of import duty exemption is not contingent on export or the use of domestic over imported goods.

Eligibility for the benefits received by each company listed in Appendix A is discussed in the response to Question C1.6

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

- (f) Describe the criteria governing the size of the benefit provided.

ANSWER:

There is no criterion governing the size of the benefit. The amount of income tax benefits is the amount of difference between standard tax rate and preferential tax rate and/or the amount of tax payment in the absence of exemption or reduction.

- (g) Provide a copy of any law, regulation or other official document detailing these criteria.

ANSWER:

This question is not applicable.

- (h) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

ANSWER:

If the eligibility criteria listed in the applicable law and regulations are met, the tax payer will always receive a benefit.

- (i) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

ANSWER:

The amount of the benefit is determined exclusively by criteria set out in Decree 218/2013/ND-CP. The provincial tax department who administers this program must also follow this Decree.

- (j) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

There is not contractual agreement between the GOV and the companies received benefits under this program

C1.10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

ANSWER:

As indicated in the response to Question C1.1, as long as the tax payer's investment project falls into either sectors of income tax preferences in Article 15 and 16 of Decree 218/2013/ND-CP or regions of income tax preferences in the Appendix to this Decree, the tax payer receive the income tax preferences.

The Government of Vietnam does not have any statistics of enterprises or regions that receive the corporate income tax preferences, and thus cannot provide to the Commission.

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was

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approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

ANSWER:

The Government of Vietnam does not have such statistics.

C1.12 Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

ANSWER:

No anticipated changes in the program have been made as the Amended Law 2013, the Amended Law 2014, Decree 218/2013/ND-CP and Decree 12/2015/ND-CP are still in force.

C1.13 If assistance under the program was provided by an entity other than a national, state or local government entity, please respond to the following questions:

- (j) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a government corporation, government lending institution, commercial entity?
- (k) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;
- (l) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (m) Has the entity received any direct or indirect funding or support from a government entity? Please specify if the government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (n) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (o) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect government ownership during the investigation period (and for each year in which the assistance was provided).
- (p) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (q) What are the core activities and functions of each entity that provided the assistance under the program?
- (r) Explain why the assistance under this program was provided by this entity rather than directly by the government.

ANSWER:

This question is not applicable.

PROGRAM 3: NON-AGRICULTURAL LAND USE TAX BENEFIT

C1.1 Provide details of the program including the following.

- (s) Title of the program.
- (t) Policy objective and/or purpose of the program.
- (u) Legislation under which the subsidy is granted.
- (v) Nature or form of the subsidy.
- (w) When the program was established.
- (x) Duration of the program.
- (y) How the program is administered and how it operates.
- (z) To whom and how the program is provided.
- (aa) The eligibility criteria in order to receive benefits under the program.

ANSWER:

During the POI, non-agricultural land use tax is provided under the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 53/2011/ND-CP implementing this Law.

Non-agricultural land use tax benefits including tax exemption and reduction are provided under Article 9 and 10 of the Law and Article 8 of Decree 53.

With respect to tax exemption, eligibility for the exemption includes:

- **Land of investment projects in sector of special investment preferences**
- **Land of investment projects in regions of exceptional socio-economic difficulties**
- **Land of investment projects of investment preferences and in regions of socio-economic difficulties**
- **Land of projects with more than 50% employees being war invalids and soldiers**
- **Land of projects in the field of socialization, education, vocational training, healthcare, culture, sports or environment**
- **Land of projects for public and social interest such as construction of memorial house, nurturing facility for aged people,...**
- **Certain type of residential land**

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- Taxpayers who face difficulties due to force majeure circumstances if the value of damage related to land and houses on land accounts for over 50% of the taxable price

With respect to tax reduction, 50% reduction of non- agricultural land use tax is granted to:

- Land of investment projects in sectors of investment preferences
- Land of investment projects in regions of socio-economic difficulties
- Land of projects with 20- 50% employees being war invalids and soldiers
- Certain residential land
- Taxpayers who face difficulties due to force majeure circumstances if the value of damage related to land and houses on land accounts for between 20% and 50% of the taxable price

Pursuant to Article 8 of Decree 53/2010/ND-CP, sectors of investment preferences and of special investment preferences and regions of socio-economic difficulties and regions of exceptional socio – economic difficulties must be in accordance with the law and regulations on investment. In particular:

- Appendix 1 to Decree 108/2006/ND-CP identifies sectors of investment preferences and sectors of special investment preferences. Appendix 2 to this Decree identifies regions of socio-economic difficulties and regions of exceptional socio – economic difficulties. These two appendices were applicable from 25 October 2006 until 26 December 2015.
- Appendix 1 to Decree 118/2015/ND-CP identifies sectors of investment preferences and sectors of special investment preferences. Appendix 2 to this Decree identifies regions of socio-economic difficulties and regions of exceptional socio – economic difficulties. These two appendices were applicable from 27 December 2015 until now.

C1.2 Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period. Specify the sections that govern the program.

ANSWER:

Exhibit 11 provides the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 53/2011/ND-CP implementing this Law.

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Exhibit 12 provides Decree 108/2006/ND-CP and Decree 118/2015/ND-CP

C1.3. Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

ANSWER:

Please refer to Exhibit 11 and 12

C1.4 Identify the GOV department or agency administering the program.

ANSWER:

Ministry of Finance is in charge of providing guidelines for the implementation of the law and government decrees.

Provincial tax departments are in charge of receiving and examining non-agricultural land use tax declarations of the payers.

C1.5 Identify and explain the types of records maintained by the relevant government or agency (e.g., accounting records, company-specific files, databases, budget authorisations, etc.) regarding the program.

ANSWER:

The tax authority in the province where the land is located maintained the tax declarations filed by the payer.

C1.6 Indicate which of the companies listed in **Appendix A** applied for, accrued, or received benefits under the program during the investigation period.

ANSWER:

Among those companies listed in Appendix A, only the following aluminium extrusions producers received the non-agricultural land use tax benefit:

1. [REDACTED]. [ENTITY]

[illegible]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

2. [REDACTED] [ENTITY]

[REDACTED]
:

[REDACTED]

[REDACTED]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

C1.7 Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).
- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

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- (c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.
- (d) If the application is refused, provide the refusal documents together with the reasons for refusal.

ANSWER:

There is no application and approval process. Enterprises rely on the applicable tax law and regulations to identify the benefits they are entitled to, declare the benefits in the tax declarations, attach documents demonstrating the tax payer's eligibility for the benefit to the tax declaration and pay the non-agricultural tax in accordance with the declaration. They take responsibility for the accuracy and completeness of the tax declaration they file with the tax authority.

The provincial tax departments revise and examine the tax declaration and tax payments. When a tax payer is found at fault by the tax authority which relates to a shortage between the payable amount and the actual payment by the payer, such payer must pay for such shortage plus late payment interest and an amount of administrative fine for the fault caused by the tax payer.

C1.8 Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

- (a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.
- (b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.
- (c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.
- (d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

ANSWER:

As explained in the response to Question C.1.1, eligibility for the benefits of the program is provided in Article 9 and 10 of of the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and two Appendices to Decree 108/2006/ND-CP effective until 26 December 2015 and two Appendices to Decree 118/2015/ND-CP effective from 27 December 2015.

Accordingly, eligibility for the benefits and actual use of import duty exemption is not contingent on export or the use of domestic over imported goods.

Eligibility for the benefits received by each company listed in Appendix A is discussed in the response to Question C1.6

C1.9 Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(k) Describe the criteria governing the size of the benefit provided.

ANSWER:

There is no criterion governing the size of the benefit. The amount of non-agricultural tax benefit is the amount of tax payment in the absence of exemption or reduction.

(l) Provide a copy of any law, regulation or other official document detailing these criteria.

ANSWER:

This question is not applicable.

(m) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

ANSWER:

If the eligibility criteria listed in the applicable law and regulations are met, the tax payer will always receive a benefit.

(n) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

ANSWER:

The amount of the benefit is determined exclusively by criteria set out in Article 9 and 10 of the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and two Appendices to Decree 108/2006/ND-CP effective until 26 December 2015 and two Appendices to Decree 118/2015/ND-CP effective from 27 December 2015.. The provincial tax department who administers this program must also follow this Decree.

(o) Provide any contractual agreements between the GOV and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

ANSWER:

There is not contractual agreement between the GOV and the companies received benefits under this program

C1.10 Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016.

ANSWER:

As indicated in the response to Question C1.1, as long as the tax payer's investment project satisfied criteria in Article 9 and 10 of of the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and two Appendices to Decree 108/2006/ND-CP effective until 26 December 2015 and two Appendices to Decree 118/2015/ND-CP effective from 27 December 2015, the tax payer receive the non-agricultural land use tax preferences.

The Government of Vietnam does not have any statistics of enterprises or regions that receive the non-agricultural land use tax preferences, and thus cannot provide to the Commission.

C1.11 How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years 2013, 2014, 2015 and for the first half of 2016? Provide the main reasons why applicants have been rejected.

ANSWER:

The Government of Vietnam does not have such statistics.

C1.12 Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

ANSWER:

No anticipated changes in the program have been made as the Law on Non-Agricultural Land Use Tax 48/2010/QH12 and Decree 118/2015/ND-CP are still in force.

C1.13 If assistance under the program was provided by an entity other than a national, state or local government entity, please respond to the following questions:

- (s) What is the legal status of the entity e.g. is it a separately incorporated entity and/or a government corporation, government lending institution, commercial entity?
- (t) Please explain how the entity was established and whether the entity operates pursuant to statutes, decrees and/or regulations. Please explain the relevant statute, decrees and regulations under which the entity was established and operates;

PUBLIC RECORD

- (u) What is the legal basis that governs the entity's provision of assistance under the program? Please provide translated copies of the relevant legal measures.
- (v) Has the entity received any direct or indirect funding or support from a government entity? Please specify if the government provided any such direct or indirect funding for the purpose of providing assistance under this program.
- (w) Did the entity provide assistance under the program pursuant to specific guidelines and/or criteria under this program? Please describe those guidelines and/or criteria.
- (x) Please provide the ownership structure of each such entity and specify the amount of any direct or indirect government ownership during the investigation period (and for each year in which the assistance was provided).
- (y) Please provide the translated annual report during the investigation period (and for each year in which the assistance was provided) for each such entity.
- (z) What are the core activities and functions of each entity that provided the assistance under the program?
- (aa) Explain why the assistance under this program was provided by this entity rather than directly by the government.

ANSWER:

This question is not applicable.

PART C2 – SPECIFIC QUESTIONS (PROGRAMS 1-3)

In addition to the general questions at C1 above, please answer the following specific questions in relation to any tax programs.

If any of the companies listed in **Appendix A** used the program to take deductions from taxable income, to receive credit towards taxes payable, to take exemptions from taxes owed, to reduce the tax rate, to defer payment of taxes, to carry forward losses from previous tax years, to use accelerated depreciation, or to benefit from other tax advantages on the tax return filed during the investigation period, please respond to the following questions.

C2.1 Explain whether the assistance is a deduction from taxable income, a credit towards taxes payable, an exemption from taxes owed, a reduction in the tax rate, a deferral of taxes, a loss carry-forward from previous tax years, accelerated depreciation, or other tax benefit.

ANSWER:

1. [REDACTED] [ENTITY]

[REDACTED]

PUBLIC RECORD

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

2. [REDACTED] [ENTITY]

[REDACTED]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

3. [REDACTED] [ENTITY]

[REDACTED]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

4. [REDACTED] [ENTITY]

[REDACTED]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

PUBLIC RECORD

C2.2 How do companies using this program calculate the tax benefit they claim?
Please be specific and provide a sample calculation using a blank tax form.

ANSWER:

These companies report their benefits in the relevant tax declarations filed with the tax authority. Details on the tax benefit of each company are provided below:

1. [REDACTED] [ENTITY

[REDACTED]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

2. [REDACTED] [ENTITY

[REDACTED]

[REDACTED]

[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

3. [REDACTED] [ENTITY

[REDACTED]

[REDACTED]



[CONFIDENTIAL TAXATION INFORMATION RELATING TO ENTITY]

C2.3 If the company carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period, demonstrate that this loss was not generated by use of any countervailable tax program.

ANSWER:

No aluminium extrusion producers listed in Appendix A carried forward a loss from prior years and used that loss to offset taxes due on the tax return filed during the investigation period

C2.4 If the program involves a deferral of taxes owed, please provide the amount and length of the deferral, and the details of any interest charged on the deferral.

ANSWER:

This question is not applicable.

C2.5 If the tax assistance results in negative income for tax purposes, for example through accelerated depreciation, is the company able to carry forward this loss?

ANSWER:

This question is not applicable because the income tax preferences entitled to the aluminium extrusions in Appendix A do not result in negative income.

C2.6 For a program that provides a reduction in the tax rate or an exemption from taxes payable, please report the tax rate that was paid under the program and the tax rate that would have applied in absence of the program.

ANSWER:

Please refer to the response to Question C2.2.

SECTION D - DECLARATION

DECLARATION

The undersigned certifies that all information supplied herein in response to the questionnaire (including any data supplied in an electronic format) is complete and correct to the best of his/her knowledge and belief.

Date

Signature of authorised official

Name of authorised official

Title of authorised official

GLOSSARY OF TERMS

Throughout this questionnaire certain words and terminology have been used and they have the following meanings:

Associated Persons and/or Companies

Persons shall be deemed to be associates of each other if:

(a) both being natural persons:

- (i) they are connected by a blood relationship or by marriage or adoption;
or
- (ii) one of them is an officer or director of a body corporate controlled, directly or indirectly, by the other;

(b) both being bodies corporate:

- (i) both of them are controlled, directly or indirectly, by a third person (whether or not a body corporate); or
- (ii) both of them together control, directly or indirectly, a third body corporate; or
- (iii) the same person (whether or not a body corporate) is in a position to cast, or control the casting of, 5% or more of the maximum number of votes that might be cast at a general meeting of each of them; or

(c) one of them, being a body corporate, is, directly or indirectly, controlled by the other (whether or not a body corporate); or

(d) one of them, being a natural person, is an employee, officer or director of the other (whether or not a body corporate); or

(e) they are members of the same partnership.

Enterprise

“Enterprise” includes a group of enterprises, an industry and a group of industries.

Foreign Invested Enterprise (FIE)

An FIE may be:

1. Vietnamese-foreign equity joint venture:

Joint venture between a Vietnamese company, enterprise, or other business organisation and a foreign company, enterprise, business organisation or individual set up in the form of a Vietnamese limited liability company.

PUBLIC RECORD

The characteristics of a Vietnamese-foreign equity joint venture are joint investment, joint operation, and the participants share profits, risks and losses in proportion to their respective contributions to the registered capital of the joint venture.

The proportion of the investment by the foreign party is no less than 25% in the registered capital of equity joint venture.

2. Vietnamese-foreign contractual joint venture:

A joint venture established between foreign enterprises and other economic organisations or individuals, and Vietnamese enterprises or other economic organisations within the territory of Vietnam. The rights and obligations of each party are determined in accordance with the agreement specified in the contractual joint venture contract. The investment or conditions for cooperation contributed by the Vietnamese and foreign parties may be provided in cash or in kind, or may include the right to the use of land, industrial property rights, non-patent technology or other property rights.

3. Wholly foreign owned enterprises:

A wholly foreign owned enterprise is established by foreign enterprises and other economic organisations or by individuals pursuant to the Vietnamese laws within the territory of Vietnam. All of the wholly foreign owned enterprise's capital is invested by foreign investors. It may also be referred to as a Foreign Enterprise (FE).

Government of Vietnam (GOV)

For the purposes of this questionnaire, GOV refers to all levels of government, i.e., central, provincial, regional, city, special economic zone, municipal, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed.

It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by, the government of that country or that provincial, state or municipal or other local or regional government.

Program(s)

The term “program”, as used throughout this questionnaire in reference to alleged subsidies, refers to broad categories of subsidies that the Commission has reason to believe may be available to exporters of the goods.

In this regard, the term “program” as used in this questionnaire should not be taken to necessarily refer to formal programs maintained by the GOV, nor should it be taken to refer to one specific subsidy. Rather, “program” as used in this questionnaire can refer to informal subsidies provided by the GOV, and can also refer to multiple individual, albeit similar, subsidies.

Economic Zone

PUBLIC RECORD

Refers to a Special Economic Area, Economic and Technical Development Zone, Bonded Zone, Export Processing Zone, High Technology Industrial Development Zone, or any other designated area where benefits from the GOV (including central, provincial, municipal or county government) accrue to a company because of being located in such an area.

State Invested Enterprises (SIE)

For the purposes of this questionnaire, SIE refers to any company or enterprise that is wholly or partially owned by the GOV as defined above (either through direct ownership or through association).

Subsidy

Subsidy, in respect of goods exported to Australia, means:

(a) a financial contribution:

- (i) by a government of the country of export or country of origin of the goods; or
- (ii) by a public body of that country or a public body of which that government is a member; or
- (iii) by a private body entrusted or directed by that government or public body to carry out a governmental function;

that involves:

- (iv) a direct transfer of funds from that government or body; or
- (v) the acceptance of liabilities, whether actual or potential, by that government or body; or
- (vi) the forgoing, or non-collection, of revenue (other than an allowable exemption or remission) due to that government or body; or
- (vii) the provision by that government or body of goods or services otherwise than in the course of providing normal infrastructure; or
- (viii) the purchase by that government or body of goods or services; or

(b) any form of income or price support as referred to in Article XVI of the General Agreement on Tariffs and Trade 1994 that is received from such a government or body;

if that financial contribution or income or price support confers a benefit (whether directly or indirectly) in relation to the goods exported to Australia

APPENDIX A

[illegible]

GOVERNMENT OF VIETNAM RESPONSE

EXHIBIT LIST

EXHIBIT 1 – CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 2 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 3 – PUBLIC

EXHIBIT 4 – PUBLIC

EXHIBIT 5 – PUBLIC

EXHIBIT 6 – PUBLIC

EXHIBIT 7 – PUBLIC

EXHIBIT 8 – PUBLIC

EXHIBIT 9 – PUBLIC

EXHIBIT 10 – PUBLIC

EXHIBIT 11 – PUBLIC

EXHIBIT 12 – PUBLIC

EXHIBIT 13 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 14 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 15 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 16 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 17 – PUBLIC

EXHIBIT 18 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 19 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

EXHIBIT 20 - CONFIDENTIAL AS IT CONTAINS EXPORTER SPECIFIC INFORMATION

ANNEX

LIST OF AREAS ENTITLED TO INCENTIVES OF CORPORATE INCOME TAX
(Issued together with Decree No. 218/2013/ND-CP dated December 26, 2013 of the Government)

No.	Provinces	Region of exceptional socio – economic difficulties	Region of socio-economic difficulties
1	Bac Kan	All districts and towns	
2	Cao Bang	All districts and towns	
3	Ha Giang	All districts and towns	
4	Lai Chau	All districts and towns	
5	Son La	All districts and towns	
6	Dien Bien	All districts and Dien Bien city	
7	Lao Cai	All districts	Lao Cai city
8	Tuyen Quang	Na Hang, Chiem Hoa, Lam Binh districts	Ham Yen, Son Duong, Yen Son and Tuyen Quang city
9	Bac Giang	Son Dong district	Luc Ngan, Luc Nam, Yen The , Hiep Hoa districts
10	Hoa Binh	Da Bac, Mai Chau districts	Kim Boi, Ky Son, Luong Son, Lac Thuy, Tan Lac, Cao Phong, Lac Son, Yen Thuy districts
11	Lang Son	Binh Gia, Dinh Lap, Cao Loc, Loc Binh, Trang Dinh, Van Lang, Van Quan districts	Bac Son, Chi Lang, Huu Lung districts
12	Phu Tho	Thanh Son, Yen Lap districts	Doan Hung, Ha Hoa, Phu Ninh, Song Thao, Thanh Ba, Tam Nong, Thanh Thuy districts
13	Thai Nguyen	Vo Nhai, Dinh Hoa districts	Dai Tu, Pho Yen, Phu Luong, Phu Binh, Dong Hy districts
14	Yen Bai	Luc Yen, Mu Cang Chai, Tram Tau districts	Tran Yen, Van Chan, Van Yen, Yen Binh districts, Nghia Lo town
15	Quang Ninh	Ba Che, Binh Lieu districts, Co To island district and provincial islands	Van Don district
16	Hai Phong	Bach Long Vi, Cat Hai island districts	

17	Ha Nam		Ly Nhan, Thanh Liem districts
18	Nam Dinh		Giao Thuy, Xuan Truong, Hai Hau, Nghia Hung districts
19	Thai Binh		Thai Thuy, Tien Hai districts
20	Ninh Binh		Nho Quan, Gia Vien, Kim Son, Tam Diep, Yen Mo districts
21	Thanh Hoa	Muong Lat, Quan Hoa, Quan Son, Ba Thuoc, Lang Chanh, Thuong Xuan, Cam Thuy, Ngoc Lac, Nhu Thanh, Nhu Xuan districts	Thach Thanh, Nong Cong districts
22	Nghe An	Ky Son, Tuong Duong, Con Cuong, Que Phong, Quy Hop, Quy Chau, Anh Son districts	Tan Ky, Nghia Dan, Thanh Chuong districts
23	Ha Tinh	Huong Khe, Huong Son, Vu Quang districts	Duc Tho, Ky Anh, Nghi Xuan, Thach Ha, Cam Xuyen, Can Loc districts
24	Quang Binh	Tuyen Hoa, Minh Hoa, Bo Trach districts	Remaining districts
25	Quang Tri	Huong Hoa, Dac Krong districts	Remaining districts
26	Thua Thien Hue	A Luoi, Nam Dong	Phong Dien, Quang Dien, Huong Tra, Phu Loc, Phu Vang districts
27	Da Nang	Hoang Sa island district	
28	Quang Nam	Dong Giang, Tay Giang, Nam Giang, Phuoc Son, Bac Tra My, Nam Tra My, Hiep Duc, Tien Phuoc, Nui Thanh districts and Cu Lao Cham island	Dai Loc, Duy Xuyen districts
29	Quang Ngai	Ba To, Tra Bong, Son Tay, Son Ha, Minh Long, Binh Son, Tay Tra districts and Ly Son island district	Nghia Hanh, Son Tinh districts
30	Binh Dinh	An Lao, Vinh Thanh, Van Canh, Phu Cat, Tay Son districts	Hoai An, Phu My districts
31	Phu Yen	Song Hinh, Dong Xuan, Son Hoa, Phu Hoa districts	Song Cau town, Tuy An Dong Hoa, Tay Hoa, Tuy An districts
32	Khanh Hoa	Khanh Vinh, Khanh Son	Van Ninh, Dien Khanh, Ninh Hoa

		districts, Hoang Sa island district and provincial islands	districts, Cam Ranh town
33	Ninh Thuan	All districts	
34	Binh Thuan	Phu Quy island district	Bac Binh, Tuy Phong, Duc Linh, Tanh Linh, Ham Thuan Bac, Ham Thuan Nam districts
35	Dak Lak	All districts	
36	Gia Lai	All districts and towns	
37	Kon Tum	All districts and towns	
38	Dak Nong	All districts	
39	Lam Dong	All districts	Bao Loc
40	Ba Ria - Vung Tau	Con Dao island district	Tan Thanh district
41	Tay Ninh	Tan Bien, Tan Chau, Chau Thanh, Ben Cau districts	Remaining districts
42	Binh Phuoc	Loc Ninh, Bu Dang, Bu Dop districts	Dong Phu, Binh Long, Phuoc Long, Chon Thanh districts
43	Long An		Kien Tuong town; Duc Hue, Moc Hoa, Tan Thanh, Duc Hoa, Vinh Hung, Tan Hung districts
44	Tien Giang	Tan Phuoc	Go Cong Dong, Go Cong Tay
45	Ben Tre	Thanh Phu, Ba Chi, Binh Dai districts	Remaining districts
46	Tra Vinh	Chau Thanh, Tra Cu districts	Cau Ngang, Cau Ke, Tieu Can districts
47	Dong Thap	Hong Ngu, Tan Hong, Tam Nong, Thap Muoi districts	Remaining districts
48	Vinh Long		Tra On district
49	Soc Trang	All districts and Vinh Chau town	Soc Trang city
50	Hau Giang	All districts and Nga Bay town	Vi Thanh city
51	An Giang	An Phu, Tri Ton, Thoai Son, Tan Chau, Tinh Bien districts	Remaining districts
52	Bac Lieu	All districts	Bac Lieu city
53	Ca Mau	All districts	Ca Mau city

54	Kien Giang	All districts and provincial islands	Thị xã Ha Tien town, Rạch Gia city
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APPENDIX I

LIST OF SECTOR OF INVESTMENT PREFERENCES

(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22, 2006)

A. LIST OF SECTOR OF SPECIAL INVESTMENT PREFERENCES

I. MANUFACTURE OF NEW MATERIALS AND PRODUCTION OF NEW ENERGY; MANUFACTURE OF PRODUCTS OF HIGH TECHNOLOGY, OF BIO-TECHNOLOGY AND OF INFORMATION TECHNOLOGY; MECHANICAL MANUFACTURING

1. Manufacture of composite materials, light construction materials, precious and rare materials.
2. Manufacture of high-quality steel, alloys, special metal, porous iron and steel billet.
3. Investment in the construction of establishments using solar energy, wind energy, biogas, geothermic and tidal energy.
4. Production of medical equipment for analytical and extractive technology in the medical sector; orthopaedic equipment, specialized vehicles and equipment for the disabled.
5. Application of advanced technology, bio-technology for production of medicines for human use up to international GMP standard; production of antibiotic materials.
6. Production of computers, telecommunication and communication and Internet equipment and key information technology products.
7. Production of semi-conductors and hi-tech electronic components; production of software products, items of digital information; provision of services on software, research into information technology and training of human resources for information technology.
8. Investment in the production and manufacture of precision mechanical engineering equipment; equipment and machines for examination and control of industrial manufacturing safety; industrial robots.

II. BREEDING, REARING, GROWING AND PROCESSING AGRICULTURAL, FOREST AND AQUACULTURE PRODUCTS; SALT MAKING; PRODUCTION OF ARTIFICIAL STRAINS, NEW PLANT VARIETIES AND LIVESTOCK BREEDS

9. Afforestation, tending of forests.
10. Breeding, rearing and growing agricultural, forest and aquaculture products on uncultivated land, unexploited waters.
11. Fishery in offshore sea waters.
12. Production of artificial strains, new plant varieties and livestock breeds of high economic value.
13. Production, mining and refining of salt.

III. USE OF HIGH TECHNOLOGY AND MODERN TECHNIQUES; PROTECTION OF THE ECOLOGICAL ENVIRONMENT; RESEARCH, DEVELOPMENT AND NURSERY OF HIGH TECHNOLOGY

14. Application of high technology or new technology which has not yet been used in Vietnam; application of bio-technology.

15. Treatment of pollution and protection of environment; production of equipment for pollution treatment and equipment for observation and analysis of the environment.

16. Collection and treatment of wastewater, waste gas and solid waste; recycling or reuse of waste.

17. Research, development and nursery of high technology.

IV. LABOR INTENSIVE INDUSTRIES

18. Projects employing 5,000 or more employees on a regular basis.

V. CONSTRUCTION AND DEVELOPMENT OF INFRASTRUCTURES AND IMPORTANT PROJECTS

19. Investment in the construction and commercial operation of infrastructures of industrial parks, export processing zones, hi-tech parks and economic zones or important projects falling within the deciding competence of the Prime Minister.

VI. DEVELOPMENT OF EDUCATION, TRAINING, HEALTH CARE, PHYSICAL TRAINING AND SPORTS

20. Investment in the construction of facilities for treatment of tobacco or drug addiction.

21. Investment in the establishment of facilities for epidemic prevention and control.

22. Investment in the establishment of geriatric centers or centers for relief and care of the disabled and orphans.

23. Investment in the construction of centers of training for high-achievement sports, sport training for the disabled; the construction of sport facilities with training and competition equipment satisfying requirements for organization of international tournaments.

VII. OTHER MANUFACTURING AND SERVICE SECTORS

24. Investment in research and development (R & D) accounting for 25% or more of the revenue.

25. Salvage operations at sea.

26. Investment in the construction of apartment buildings for workers working in industrial parks, export processing zones, hi-tech parks and economic zones; investment in the construction of dormitories for students and of residential houses for social policy beneficiaries.

B. LIST OF SECTOR OF INVESTMENT PREFERENCES

I. MANUFACTURE OF NEW MATERIALS AND PRODUCTION OF NEW ENERGY; MANUFACTURE OF PRODUCTS OF HIGH-TECHNOLOGY, OF BIO-TECHNOLOGY OR OF INFORMATION TECHNOLOGY; MECHANICAL MANUFACTURING

1. Production of soundproof, electricity insulated or high heat-insulated materials; synthetic materials used as a substitute for wood; fire-proof materials; construction plastics; glass fiber; special-use cement.

2. Production of non-ferrous metals and refining of cast iron.

3. Production of molds and prototypes for metal and non-metal products.
4. Investment in the construction of new power plants, in power distribution and transmission.
5. Production of medical supplies and equipment, construction of warehouses for preservation of pharmaceutical products, reserves of medicines for human use in case of natural disasters and dangerous epidemics.
6. Production of equipment used for testing toxic substances in foodstuffs.
7. Development of the petrochemical industry.
8. Production of coke and active coal.
9. Production of plant protection drugs, pesticides, preventive and curative drugs for animals and aquatic creatures; veterinary drugs.
10. Materials for production of medicines or medicines for prevention or treatment of social diseases; vaccines; biological products; medicines produced from pharmaceutical materials; eastern medicines.
11. Investment in the construction of facilities for biological experiment, assessment of the availability of medicines; pharmaceutical establishments satisfying GMP standards in producing, preserving, testing, and carrying out clinical tests of medicines, planting, rearing or harvesting and processing of pharmaceutical materials.
12. Development of sources of pharmaceutical materials and production of medicines from pharmaceutical materials; projects for research or substantiation of scientific grounds for prescriptions for eastern medicines and formulation of standards for testing of prescriptions for eastern medicines; survey and statistics of types of pharmaceutical materials used for production of medicines; collection, inheritance and application of prescriptions for eastern medicines, finding, exploitation and use of new pharmaceutical materials.
13. Production of electronic appliances.
14. Production of machines, equipment and detail assemblies for the following sectors: oil and gas exploitation, mining, energy and cement; production of large-sized lifting equipment; production of machine tools for metal processing and metallurgy equipment.
15. Investment in the manufacture of high and medium voltage electric devices or generators of large capacity.
16. Investment in the production of diesel engines; investment in the repair or building of ships; equipment and spare parts for transportation ships and fishing ships; production of dynamic and hydraulic machinery and spare parts and compressing machines.
17. Production of equipment, vehicles and machinery for construction; technical equipment for the transportation sector; locomotives and carriages;
18. Investment in the manufacture of machine tools, machinery, equipment and components for agricultural and forest production; machinery for food processing; irrigation equipment.
19. Investment in the production of equipment, machinery for textiles, garments and leather industries.

II. BREEDING, REARING, GROWING AND PROCESSING OF AGRICULTURAL, FOREST AND AQUACULTURE PRODUCTS; SALT MAKING; PRODUCTION OF ARTIFICIAL STRAINS, NEW PLANT VARIETIES AND LIVESTOCK BREEDS

20. Growing of plants for pharmaceutical purposes.
21. Investment in post-harvest preservation of agricultural products, preservation of agricultural and aquaculture products and foodstuffs.
22. Production of bottled or canned fruit juices.
23. Production and refining of feed for cattle, poultry and aquatic resources.
24. Technical services for planting industrial and forest trees, husbandry, aquaculture, protection of plants and livestock.
25. Production, multiplication or crossbreeding for new plant varieties or livestock breeds.

III. USE OF HIGH TECHNOLOGY AND MODERN TECHNIQUES; PROTECTION OF THE ECOLOGICAL ENVIRONMENT; RESEARCH, DEVELOPMENT AND NURSERY OF HIGH TECHNOLOGY

26. Manufacture of equipment for responding to and dealing with oil spills.
27. Manufacture of equipment for waste treatment.
28. Investment in the construction of technical facilities and works: laboratories and experimental stations to apply new technology to production; investment in the establishment of research institutes.

IV. LABOR INTENSIVE INDUSTRIES

29. Projects regularly employing between 500 and 5,000 employees.

V. CONSTRUCTION AND DEVELOPMENT OF INFRASTRUCTURES

30. Construction of infrastructures serving production and business of cooperatives and life of communities in rural areas.
31. Investment in and commercial operation of infrastructures and investment in the production in industrial complexes, industrial spots, complexes of rural trade villages.
32. Construction of water plants and water supply systems for civil and industrial use; investment in the construction of water drainage systems.
33. Construction and upgrading of bridges, roads, terminals, airports, seaports, railway stations, bus stations and parking lots; establishment of new railway routes.
34. Construction of technical infrastructures of concentrated population areas in the geographical areas in Appendix II to this Decree.

VI. DEVELOPMENT OF EDUCATION, TRAINING, HEALTH CARE, PHYSICAL TRAINING, SPORTS AND NATIONAL CULTURE

35. Investment in the construction of infrastructures for education and training establishments; investment in the construction of people-founded and private schools and education and training establishments at the levels of pre-school education; general education, vocational high-school education and tertiary education.

36. Establishment of people-founded and private hospitals.

37. Construction: physical training or sport centers, training facilities and physical training and sports clubs; establishments for production, manufacture and repair of equipment, supplies and equipment for physical training and sports.

38. Establishment of national cultural houses; national dance, music and song troupes; theaters, film studios, cinemas; establishments for production, manufacture and repair of national musical instruments; maintenance and preservation of museums, national cultural houses and culture and arts schools.

39. Investment in the construction of national tourist sites, ecological tourist sites and cultural parks for sports, entertainment and recreation activities.

VII. DEVELOPMENT OF TRADITIONAL TRADES AND OCCUPATIONS

40. Building up and development of traditional trades and occupations for production of fine-art and handicraft goods, processing of agricultural products and foodstuffs and cultural products.

VIII. OTHER MANUFACTURING AND SERVICE SECTORS

41. Provision of Internet connection, access and application services and points for accessing public telephones in areas in Appendix II to this Decree.

42. Development of mass transit including: transportation by ships, aircraft; railway transportation; road transportation of passengers by cars with 24 seats or more; transportation of passengers by modern and high-speed vehicles by inland waterway; container transportation.

43. Investment in the relocation of production establishments to non-urban areas.

44. Investment in the construction of class-I marketplaces and exhibition centers.

45. Production of childrens toys.

46. Activities in mobilizing capital and lending capital of peoples credit funds.

47. Legal consultancy, services of consultancy on intellectual property and technology transfer.

48. Production of various types of materials for production of pesticides.

49. Production of base chemicals, purified chemicals, special-use chemicals and dyes.

50. Production of materials for production of detergents and additives for the chemical industry.

51. Production of paper, cartons, artificial planks from domestic agricultural and forest materials; production of pulp.

52. Weaving and fashioning of textile products; production of silk and fibers of all types; tanning and processing of leather.

53. Investment projects on production activities in industrial parks established under decisions of the Prime Minister.

APPENDIX II

LIST OF GEOGRAPHICAL AREAS ENTITLED TO INVESTMENT PREFERENCES
(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22,
2006)

Ordinal number	Province	Region of exceptional socio-economic difficulties	Region of socio-economic difficulties
1	Bac Kan	All districts and towns	
2	Cao Bang	All districts and towns	
3	Ha Giang	All districts and towns	
4	Lai Chau	All districts and towns	
5	Son La	All districts and towns	
6	Dien Bien	All districts and Dien Bien city	
7	Lao Cai	All districts	Lao Cai City
8	Tuyen Quang	Na Hang and Chiem Hoa districts	Ham Yen, Son Duong and Yen Son districts and Tuyen Quang town
9	Bac Giang	Son Dong district	Luc Ngan, Luc Nam, Yen The and Hiep Hoa districts
10	Hoa Binh	Da Bac and Mai Chau districts	Kim Boi, Ky Son, Luong Son, Lac Thuy, Tan Lac, Cao Phong, Lac Son and Yen Thuy districts
11	Lang Son	Binh Gia, Dinh Lap, Cao Loc, Loc Binh, Trang Dinh, Van Lang and Van Quan districts	Bac Son, Chi Lang and Huu Lung districts
12	Phu Tho	Thanh Son and Yen Lap districts	Doan Hung, Ha Hoa, Phu Ninh, Song Thao, Thanh Ba, Tam Nong and Thanh Thuy districts
13	Thai Nguyen	Vo Nhai anh Dinh Hoa districts	Dai Tu, Pho Yen, Phu Luong, Phu Binh and Dong Hy districts
14	Yen Bai	Luc Yen, Mu Cang Chai and Tram Tau districts	Tran Yen, Van Chan, Van Yen and Yen Binh districts and Nghia Lo town
15	Quang Ninh	Ba Che and Binh Lieu districts, Co To island district, islands and offshore islands under provincial authority	Van Don district
16	Hal Phong	Bach Long Vy and Cat Hal island districts	
17	Ha Nam		Ly Nhan and Thanh Liem districts
18	Nam Dinh		Giao Thuy, Xuan Truong, Hai Hau and Nghia Hung districts
19	Thai Binh		Thai Thuy and Tien Hai districts

20	Ninh Binh		Nho Quan, Gia Vien, Kim Son, Tam Diep and Yen Mo districts
21	Thanh Hoa	Muong Lat, Quan Hoa, Ba Thuoc, Lang Chanh, Thuong Xuan, Cam Thuy, Ngoc Lac, Nhu Thanh and Nhu Xuan districts	Thach Thanh and Nong Cong districts
22	Nghe An	Ky Son, Tuong Duong, Con Cuong, Que Phong, Quy Hop, Quy Chau and Anh Son districts	Tan Ky, Nghia Dan and Thanh Chuong districts
23	Ha Tinh	Huong Khe, Huong Son and Vu Quang districts	Duc Tho, Ky Anh, Nghi Xuan, Thach Ha, Cam Xuyen and Can Loc districts
24	Quang Binh	Tuyen Hoa, Minh Hoa and Bo Trach districts	Other districts
25	Quang Tri	Huong Hoa and Dac Krong districts	Other districts
26	Thua Thien Hue	A Luoi and Nam Dong districts	Phong Dien, Quang Dien, Huong Tra, Phu Loc and Phu Vang districts
27	Da Nang	Hoang Sa island district	
28	Quang Nam	Dong Giang, Tay Giang, Nam Giang, Phuoc Son, Bac Tra My, Nam Tra My, Hiep Duc, Tien Phuoc and Nui Thanh districts and Cu Lao Cham island	Dai Loc and Duy Xuyen districts
29	Quang Ngai	Ba To, Tra Bong, Son Tay, Son Ha, Minh Long, Binh Son and Tay Tra districts and Ly Son island district	Nghia Hanh and Son Tinh districts
30	Binh Dinh	An Lao, Vinh Thanh, Van Canh, Phu Cat and Tay Son districts	Hoai An and Phu My districts
31	Phu Yen	Song Hinh, Dong Xuan, Son Hoa and Phu Hoa districts	Song Cau, Tuy Hoa and Tuy An districts
32	Khanh Hoa	Khanh Vinh and Khanh Son districts, Truong Sa island district and islands under provincial management	Van Ninh, Dien Khanh and Ninh Hoa districts and Cam Ranh town
33	Ninh Thuan	All districts	
34	Binh Thuan	Phu Quy island district	Bac Binh, Tuy Phong, Duc Linh, Tanh Linh, Ham Thuan Bac and Ham Thuan Nam districts

35	Dak Lak	All districts	
36	Gia Lai	All districts and towns	
37	Kon Tum	All districts and towns	
38	Dak Nong	All districts	
39	Lam Dong	All districts	Bao Loc town
40	Ba Ria - Vung Tau	Con Dao island district	Tan Thanh district
41	Tay Ninh	Tan Bien, Tan Chau, Chau Thanh and Ben Cau districts	Other districts
42	Binh Phuoc	Loc Ninh, Bu Dang and Bu Dop districts	Dong Phu, Binh Long, Phuoc Long and Chon Thanh districts
43	Long An		Duc Hue, Moc Hoa, Tan Thanh, Duc Hoa, Vinh Hung and Tan Hung districts
44	Tien Giang	Tan Phuoc district	Go Cong Dong and Go Cong Tay districts
45	Ben Tre	Thanh Phu, Ba Chi and Binh Dai districts	Other districts
46	Tra Vinh	Chau Thanh and Tra Cu districts	Cau Ngang, Cau Ke and Tieu Can districts
47	Dong Thap	Hong Ngu, Tan Hong, Tam Nong and Thap Muoi districts	Other districts
48	Vinh Long		Tra On district
49	Soc Trang	All districts	Soc Trang town
50	Hau Giang	All districts	Vi Thanh town
51	An Giang	An Phu, Tn Ton, Thoai Son, Tan Chau and Tinh Bien districts	Other districts
52	Bac Lieu	All districts	Bac Lieu town
53	Ca Mau	All districts	Ca Mau city
54	Kien Giang	All districts, islands and offshore islands under provincial management	Ha Tien and Rach Gia towns
	Other localities	Hi-tech parks and economic zones entitled to preferences under establishment decisions of the Prime Minister	Industrial parks established under decisions of the Prime Minister

APPENDIX III

LIST OF CONDITIONAL INVESTMENT DOMAINS APPLICABLE TO FOREIGN INVESTORS

*(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22,
2006)*

1. Broadcasting and television.

2. Production, publishing and distribution of cultural products.
3. Exploitation and processing of minerals.
4. Establishment of infrastructures for telecommunications networks, transmission and provision of Internet and telecommunications services.
5. Establishment of public postal networks and provision of postal services and delivery services.
6. Construction and operation of river ports, seaports, airports and airfields.
7. Transportation of goods and passengers by rail, air, land and sea and inland waterways.
8. Catching of marine resources.
9. Production of cigarettes.
10. Real estate business.
11. Investment in import, export and distribution.
12. Education and training.
13. Hospitals and clinics.
14. Other investment domains in treaties to which Vietnam is a contracting party and which restrict the opening of the market to foreign investors.

Investment conditions applicable to foreign investors with investment projects in the domains specified in this Appendix must conform with the provisions of treaties to which Vietnam is a contracting party.

APPENDIX IV

LIST OF DOMAINS BANNED FROM INVESTMENT

(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22, 2006)

I. PROJECTS WHICH ARE DETRIMENTAL TO NATIONAL DEFENSE AND SECURITY AND PUBLIC INTERESTS

1. Production and processing of narcotics.
2. Investment in and commercial operation of secret investigation services infringing upon state interests, legitimate rights and interests of organizations and individuals.
3. Investment in the field of private detective and investigation.

II. PROJECTS WHICH ARE HARMFUL TO HISTORICAL AND CULTURAL RELICS, MORALITY AND VIETNAMESE FINE CUSTOMS

4. Projects on construction of works within the premises of national historical or cultural relics; projects adversely affecting the architecture and landscape of national historical cultural relics.
5. Production of depraved cultural or superstitious products.
6. Production of dangerous toys or toys which are harmful to personality education and health of children or security, social order and safety.

7. Prostitution business; trafficking of women and children.
8. Experiments of human cloning.

III. PROJECTS WHICH ARE HARMFUL TO THE PEOPLES HEALTH, OR WHICH DESTROY NATURAL RESOURCES AND THE ENVIRONMENT.

9. Production of schedule 1 chemicals (in accordance with the International Convention).
10. Production of veterinary drugs, plant protection drugs which are banned from use or are not permitted for use in Vietnam.
11. Production of medicines for human use, vaccines, medical biological products, cosmetics, chemicals and preparations used for killing insects or bacteria which are not permitted for use in Vietnam.

IV. PROJECTS ON TREATMENT OF HAZARDOUS WASTE BROUGHT FROM OVERSEAS INTO VIETNAM; PROJECTS ON MANUFACTURE OF TOXIC CHEMICALS OR ON USE OF TOXIC AGENTS PROHIBITED UNDER TREATIES

12. Projects on treatment of hazardous waste brought from overseas into Vietnam; projects on manufacture of toxic chemicals or on use of toxic agents prohibited under treaties to which Vietnam is a contracting party.

V. OTHER PROJECTS BANNED FROM INVESTMENT IN ACCORDANCE WITH LAW.-

APPENDIX I

LIST OF BUSINESS LINES ELIGIBLE FOR INVESTMENT INCENTIVES *(Promulgated together with the Government's Decree No. 118/2015/ND-CP dated November 12, 2015)*

A. BUSINESS LINES ELIGIBLE FOR SPECIAL INVESTMENT INCENTIVES

I. HIGH TECHNOLOGY, INFORMATION TECHNOLOGY, ANCILLARY INDUSTRIES

1. Application of high technologies on the List of high technologies given priority under the Prime Minister's decisions.
2. Production of products on the list of hi-tech products given priority under the Prime Minister's decisions.
3. Production of ancillary industry products under the Prime Minister's decisions.
4. Development of high technologies and high technology enterprises; venture investment in high technology development; application, research and development of high technology according to regulations of law on high technology; manufacturing of biotechnology products.
5. Production of software products, digital products, key information technology products, software service, information security services, information protection service according to regulations of law on information technology.
6. Production of renewable energy, clean energy, and waste-to-energy production.
7. Manufacture of composite materials, light building materials, and rare materials.

II. AGRICULTURE

1. Cultivation, protection, and development of forests.
2. Farming, processing, preserving agriculture, forestry, and aquaculture products.
3. Production, breeding, cross-breeding plant varieties, animal breeds, and aquatic breeds.
4. Salt production, extraction, and refinement.
5. Offshore fishing combined with advanced fishing methods; fishing logistics services; construction of shipyards and ship-building.
6. Rescue services at sea.

III. ENVIRONMENTAL PROTECTION, INFRASTRUCTURE CONSTRUCTION

1. Concentrated waste collection, treatment, recycling, and reuse.
2. Construction, operation of infrastructure of industrial parks, export-processing zones, hi-tech zones, and specialized areas in economic zones.
3. Development of water plants, power plants, water supply and drainage system; bridges, roads, railroads, airports, seaports, river ports; airfields, train stations, and other particularly important infrastructural works decided by the Prime Minister.
4. Development of public transportation in urban areas.
5. Construction, management, and operation of rural markets.

IV. CULTURE, SOCIETY, SPORTS, HEALTHCARE

1. Construction of social houses and relocation housing.
2. Investment in epidemic prevention facilities.
3. Research and development of preparation technology and biotechnology for production of new medicines.
4. Production of medicines ingredients and essential medicines, medicines for prevention and treatment of sexually transmitted diseases, vaccines, biological, herbal medicines, oriental medicines; medicines whose patents are about to expire or relevant proprietary medicines; application of advanced technology and biotechnology to production of medicines for humans according to international GMP standards; production of primary packages of medicines.
5. Investment in manufacture of methadone.
6. Investment in centers for high-performance sports, sports training centers for the disabled; construction of sports facilities having training and competition equipment suitable for used at international competitions; professional sports training facilities.
7. Investment in geriatric centers, psychiatry centers, centers for treatment of dioxin patients, centers for caring elders, the disabled, orphans, and homeless children.
8. Investment in Social Treatment – Education – Labor centers; rehabilitation centers smoking cessation centers; HIV/AIDS treatment centers.
9. Investment in national museums, ethnic culture centers; traditional theatre groups; theatres, film studios, film production facilities, film development facilities; fine art – photography exhibition centers; production, repair of traditional musical instruments, maintenance of ethnic

museums and art schools; facilities and trade villages for introduction and development of traditional trades.

B. BUSINESS LINES ELIGIBLE FOR INVESTMENT INCENTIVES

I. SCIENCE AND TECHNOLOGY, ELECTRONICS, MECHANICS, MATERIAL PRODUCTION, INFORMATION TECHNOLOGY

1. Production of products on the list of key mechanical products under the Prime Minister's decisions.
2. Investment in research and development.
3. Production of steel billets from iron ore, high-grade steel, alloys.
4. Production of coke and activated carbon.
5. Production of energy-saving products.
6. Production of petrochemical products, pharmaceutical-chemical products, technical plastic – rubber components.
7. Production of products with at least 30% added value (according to instructions of the Ministry of Planning and Investment).
8. Production of automobiles, automobile parts, ship-building.
9. Production of electronic components and electronic clusters other than those specified in (A).
10. Production of farming machines, equipment, components, machines serving agriculture, forestry, aquaculture, salt production, food processing machines, and irrigation equipment other than those specified in (A).
11. Production of materials to replace asbestos.

II. AGRICULTURE

1. Cultivating, gathering, processing herbs; protection of genetic resources, rare and special herbs.
2. Production, processing of animal feeds.
3. Technological services related to cultivation, breeding, aquaculture, protection of plants and animals.

4. Construction, upgrade or slaughterhouses; industrial preservation and processing poultry and livestock.
5. Development of material areas serving processing industry.
6. Fishing.

III. ENVIRONMENTAL PROTECTION, INFRASTRUCTURE CONSTRUCTION

1. Construction and development of infrastructure of industrial complexes.
2. Construction of apartment buildings for workers in industrial parks, export-processing zones, hi-tech zones, economic zones; construction of dormitories for students and houses for beneficiaries of incentive policies; construction of urban areas (including kindergartens, schools, hospitals) serving workers.
3. Recovery of oil spill, landslide, dyke, riverbank, seashore, dam, reservoir erosion, and other environmental emergencies; application of technology to minimization of greenhouse gas emission.
4. Investment in operation of exhibition centers, logistics centers, warehouses, supermarkets, shopping malls.

IV. EDUCATION, CULTURE, SOCIETY, SPORTS, HEALTHCARE

1. Investment in operation of infrastructure of educational institutions, development of non-public educational institutions, including preschool education, compulsory education, and vocational education,
2. Production of medical equipment, construction of warehouses for preservation of pharmaceuticals and reserve of medicines for humans in case of disasters, epidemics.
3. Manufacture of ingredients of medicines and pesticides; drugs for animals and aquatic organisms.
4. Investment in biological testing facilities, bioavailability assessment, pharmaceutical facilities that meet good practice standards for manufacturing, preservation, testing, clinical trial of medicines.
5. Investment in research into scientific foundation of traditional medicines and establishment of standards for testing traditional medicines
6. Investment in sports centers, stadiums, swimming pools; facilities for production, repair sports equipment.
7. Investment in public libraries and cinemas.

8. Investment in construction of cemeteries, crematories.

V. OTHER BUSINESS LINES

1. People's credit funds and microfinance institutions.

APPENDIX II

LIST OF REGION OF SOCIO-INVESTMENT PREFERENCES

(Promulgated together with the Government's Decree No. 118/2015/ND-CP dated November 12, 2015)

No.	Province	Region of exceptional socio-economic difficulties	Region of socio-economic difficulties
1	Bac Kan	All districts, towns, and Bac Kan city	
2	Cao Bang	All districts and Cao Bang city	
3	Ha Giang	All districts and Ha Giang city	
4	Lai Chau	All districts and Lai Chau city	
5	Son La	All districts and Son La city	
6	Dien Bien	All districts, towns, and Dien Bien city	
7	Lao Cai	All districts	Lao Cai city
8	Tuyen Quang	Na Hang, Chiem Hoa, Lam Binh districts	Ham Yen, Son Duong, Yen Son districts and Tuyen Quang city
9	Bac Giang	Son Dong district	Luc Ngan, Luc Nam, Yen The, Hiep Hoa districts
10	Hoa Binh	Da Bac, Mai Chau districts	Kim Boi, Ky Son, Luong Son, Lac Thuy, Tan Lac, Cao Phong, Lac Son, Yen Thuy districts
11	Lang Son	Binh Gia, Dinh Lap, Cao Loc, Loc Binh, Trang Dinh, Van Lang, Van Quan, Bac Son districts	Chi Lang, Huu Lung districts
12	Phu Tho	Thanh Son, Tan Son, Yen Lap districts	Doan Hung, Ha Hoa, Phu Ninh, Thanh Ba, Tam Nong, Thanh Thuy, Cam Khe districts
13	Thai Nguyen	Vo Nhai, Dinh Hoa, Dai Tu, Phu	Pho Yen, Phu Binh districts

		Luong, Dong Hy districts	
14	Yen Bai	Luc Yen, Mu Cang Chai, Tram Tau districts	Tran Yen, Van Chan, Van Yen, Yen Binh, and Nghia Lo town
15	Quang Ninh	Ba Che, Binh Lieu districts, Co To islands, and other islands in the province	Van Don, Tien Yen, Hai Ha, Dam Ha districts
16	Hai Phong	Bach Long Vi, Cat Hai islands	
17	Ha Nam		Ly Nhan, Thanh Liem, Binh Luc districts
18	Nam Dinh		Giao Thuy, Xuan Truong, Hai Hau, Nghia Hung districts
19	Thai Binh		Thai Thuy, Tien Hai districts
20	Ninh Binh		Nho Quan, Gia Vien, Kim Son, Tam Diep, Yen Mo districts
21	Thanh Hoa	Muong Lat, Quan Hoa, Quan Son, Ba Thuoc, Lang Chanh, Thuong Xuan, Cam Thuy, Ngoc Lac, Nhu Thanh, Nhu Xuan districts	Thach Thanh, Nong Cong districts
22	Nghe An	Ky Son, Tuong Duong, Con Cuong, Que Phong, Quy Hop, Quy Chau, Anh Son districts	Tan Ky, Nghia Dan, Thanh Chuong districts, and Thai Hoa town
23	Ha Tinh	Huong Khe, Huong Son, Vu Quang, Loc Ha, Ky Anh districts	Duc Tho, Nghi Xuan, Thach Ha, Cam Xuyen, Can Loc districts
24	Quang Binh	Tuyen Hoa, Minh Hoa, Bo Trach districts	Other districts and Ba Don town
25	Quang Tri	Huong Hoa, Da Krong districts, Con Co island and other islands of the province	Other districts
26	Thua Thien Hue	A Luoi, Nam Dong districts	Phong Dien, Quang Dien, Phu Loc, Phu Vang districts and Huong Tra town
27	Da Nang	Hoang Sa archipelago	
28	Quang Nam	Dong Giang, Tay Giang, Nam Giang, Phuoc Son, Bac Tra My, Nam Tra My, Hiep Duc, Tien Phuoc, Nui Thanh, Nong Son, Thang Binh districts and Cu Lao Cham island	Dai Loc, Que Son, Phu Ninh, Duy Xuyen districts
29	Quang Ngai	Ba To, Tra Dong, Son Tay, Son Ha,	Nghia Hanh district

		Minh Long, Binh Son, Tay Tra, Son Tinh districts and Ly Son island	
30	Binh Dinh	An Lao, Vinh Thanh, Van Canh, Phu Cat, Tay Son, Hoai An, Phu My districts	Tuy Phuoc districts
31	Phu Yen	Song Hinh, Dong Xuan, Son Hoa, Phu Hoa, Tay Hoa districts	Song Cau town; Dong Hoa, Tuy An districts
32	Khanh Hoa	Khanh Vinh, Khanh Son districts, Truong Sa archipelago and other islands of the province	Van Ninh, Dien Khanh, Cam Lam districts, Ninh Hoa town, and Cam Ranh city
33	Ninh Thuan	All districts	Phan Rang - Thap Cham city
34	Binh Thuan	Phu Quy district	Bac Binh, Tuy Phong, Duc Linh, Tanh Linh, Ham Thuan Bac, Ham Thuan Nam, Ham Tan districts
35	Dak Lak	All districts and Buon Ho town	Buon Ma Thuot city
36	Gia Lai	All districts and towns	Pleiku city
37	Kon Tum	All districts and cities	
38	Dak Nong	All districts and towns	
39	Lam Dong	All districts	Bao Loc city
40	Ba Ria - Vung Tau	Con Dao district	Huyen Tan Thanh, Chau Duc, Xuyen Moc
41	Tay Ninh	Tan Bien, Tan Chau, Chau Thanh, Ben Cau districts	Other districts
42	Binh Phuoc	Loc Ninh, Bu Dang, Bu Dop, Bu Gia Map, Phu Rieng districts	Dong Phu, Chon Thanh, Hon Quan districts, Binh Long town, and Phuoc Long town
43	Long An	Duc Hue, Moc Hoa, Vinh Hung, Tan Hung districts	Kien Tuong town; Tan Thanh, Duc Hoa, Thanh Hoa districts
44	Tien Giang	Tan Phuoc, Tan Phu Dong districts	Go Cong Dong, Go Cong Tay districts
45	Ben Tre	Thanh Phu, Ba Tri, Binh Dai districts	Other districts
46	Tra Vinh	Chau Thanh, Tra Cu districts	Cau Ngang, Cau Ke, Tieu Can districts, and Tra Vinh city
47	Dong Thap	Hong Ngu, Tan Hong, Tam Nong, Thap Muoi districts, and Hong Ngu town	Other districts
48	Vinh Long		Tra On, Binh Tan, Vung Liem, Mang

			Thit, Tam Binh districts
49	Soc Trang	All districts, Vinh Chau town, and Nga Nam town	Soc Trang city
50	Hau Giang	All districts and Nga Bay town	Vi Thanh city
51	An Giang	An Phu, Tri Ton, Thoai Son, Tinh Bien districts, and Tan Chau town	Chau Doc city and other districts
52	Bac Lieu	All districts and towns	Bac Lieu city
53	Ca Mau	All districts and islands of the province	Ca Mau city
54	Kien Giang	All districts, islands of the province, and Ha Tien town	Rach Gia city
55		Economic zones, hi-tech zones (including concentrated information technology zones established under regulations of the Government)	Industrial parks, export-processing zones established under regulations of the Government.

NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Law No. 32/2013/QH13

Hanoi, June 19, 2013

LAW

ON THE AMENDMENTS TO THE LAW ON ENTERPRISE INCOME TAX

Pursuant to the Constitution of Socialist Republic of Vietnam 1992, amended in the Resolution No. 51/2001/QH10;

The National Assembly promulgates a law on the amendments to the Law on Enterprise income tax No. 14/2008/QH12.

Article 1. The amendments to the Law on Enterprise income tax:

1. Clause 3 of Article 2 is amended as follows:

“3. The permanent establishments of a foreign enterprise are the places through which the foreign enterprise carries out part or the whole business in Vietnam, including:

- a) Branches, executive offices, factories, workshops, means of transport, oil fields, gas fields, mines or other natural resource extraction sites in Vietnam;
- b) Construction sites;
- c) Service providing centers, including counseling services via employees or other organizations or individuals;
- d) Agents of foreign enterprises;
- dd) Representatives in Vietnam that are competent to sign contracts under the name of the foreign enterprise or that are not competent to sign contracts under the name of the enterprise but regularly provide goods or services in Vietnam.”

2. Clause 2 of Article 3 is amended as follows:

“2. Other incomes include incomes from the transfer of capital, the right to capital contribution; incomes from transfer of real estate, project of investment, the right to participate in project of investment, the transfer of the right to explore, extract, and process minerals; incomes from the right to use property and property ownership, including incomes from intellectual property right; incomes from transferring, leasing, and liquidating assets, including valuable papers; incomes from interest on deposit, capital loan, sale of foreign currency; revenues from written off bad debts that are repaid; revenues from debts of unidentified debtors; omitted incomes in previous years, and other incomes, including incomes from business outside Vietnam.”

3. Clause 1 and Clause 4 of Article 4 is amended, Clauses 8, 9, 10, and 11 are added to Article 4 as follows:

“1. incomes from farming, breeding, aquaculture, salt production of cooperatives; incomes of cooperatives from agriculture, forestry, fisheries, and salt production in region of socio-economic

difficulties or region of exceptional socio-economic difficulties; incomes of enterprises from farming, breeding, aquaculture in region of exceptional socio-economic difficulties; incomes from fisheries.”

“4. Incomes from production and sale of goods and services of enterprises that have at least 30% of the employees are disabled people, detoxified people, suffers of HIV/AIDS, and have at least 20 employees, except for enterprises engaged in finance and real estate business.”

“8. Incomes from the transfer of Certified Emissions Reductions (CERs) of enterprises issued with CERs.

9. Incomes from the performance of tasks of the Vietnam Development Bank, which are assigned by the State, in credit for development and export; incomes from granting credit to the poor and beneficiaries of policies of Vietnam Bank for Social Policies; incomes of state financial funds and other state funds serving non-profit purpose incomes of organizations, of which 100% charter capital is possessed by the State, that are established by the Government to settle bad debts of Vietnamese credit institutions.

10. Undistributed incomes of private organizations, which make investment in education, health, and other fields, that are kept to serve their development in accordance with the laws on education, health, and other fields; the incomes that form the undistributed assets of cooperatives established and operating in accordance with the Law on Cooperatives.

11. Incomes from transfer of technologies that are prioritized to be to organizations and individuals in region of exceptional socio-economic difficulties.”

4. Clause 3 of Article 7 is amended as follows:

“3. Incomes from transfers of real estate, project of investment, the right to participate in projects of investments, the right to explore, extract, and process minerals must be separated. The loss on transfers of projects of investment (except for mineral exploration and mineral extraction projects), incomes from transfers of the right to participate in projects of investment (except for the mineral exploration and mineral extraction projects), incomes from transfer of real estate shall be offset against the profit in the tax period.”

5. Article 9 is amended as follows:

“Article 9. Deductible and non-deductible expenditures

1. Except for the expenditures mentioned in Clause 2 of this Article, all expenditures are deductible when calculating taxable income if they meet the conditions below:

- a) Actual expenditures related to the business of the enterprise; expenditures on National defense and security of enterprise according to law;
- b) Expenditures that have sufficient invoices and documents according to law. The sale invoices of 20 million VND must have receipts of non-cash payment, unless they are not required by law.

2. Non-deductible expenditures when calculating taxable income:

- a) The expenditures that fail to meet all conditions in Clause 1 of this Article, except for the loss cause by natural disasters, epidemics, and other force majeure that are not compensated.
- b) Fines for administrative violations;
- c) The expenditures that are covered by other budgets;

- d) The administrative expense allocated by the foreign enterprise to the permanent establishment in Vietnam that exceeds the limit imposed by Vietnam's law.
- dd) The extra expenditure according to the laws on making provision;
- e) The expenditure on interest on loans that are not given by credit institutions or economic organizations and exceed 150% of basic interest rates announced by the State bank of Vietnam when the loan is taken.
- g) Improper depreciation of fixed assets;
- h) Improper accrued expenses;
- i) Wages and remunerations of owners of private enterprises; wages of founders that do not participate in business management; wages, remunerations, and amounts payables to the employees that are not actually paid or do not have invoices according to law;
- k) The expenditures on loan interests corresponding to the charter capital deficit;
- l) Deducted input VAT, VAT paid using the deduction method, enterprise income tax;
- m) The expenditure on advertising, marketing, promotion, commissions, receptions, conferences, support for marketing and expenditures directly related to business that exceed 15% of the deductible amount. The total deductible amount does not include the expenditures in this Point; for commercial activities, the total deductible amount does not include the purchase prices of goods;
- n) Sponsorships, except for sponsorships for education, health, scientific research, disaster recovery, houses of unity, houses of gratitude, houses for beneficiaries of social policies according to law, sponsorships for region of exceptional socio-economic difficulties according to state programs;
- o) Voluntary payments to retirement funds or social security funds, payments for voluntary retirement insurance for employees that exceed the limits imposed by law;
- p) Expenditures on businesses: banking, insurance, lottery, securities, and some other special businesses specified by the Minister of Finance.

3. Expenditures in foreign currency, unless to serve the calculation of taxable incomes that must be converted into VND, according to the average exchange rates on the interbank foreign currency market that are announced by the State bank of Vietnam when the expenditures occur.

The Government shall elaborate and provide guidance on the implementation of this Article.”

6. Article 10 is amended as follows:

“Article 10. Tax rate

1. The enterprise income tax rate is 22%, except for the cases in Clause 2 and Clause 3 of this Article and beneficiaries of tax incentives defined in Article 13 of this Article.

The cases to which the tax rate of 22% in this Clause shall apply the tax rate of 20% from January 01, 2016.

2. Any enterprise of which the total revenue does not exceed 20 billion VND per year are eligible for the tax rate of 20%.

The revenue used as the basis for identifying enterprises eligible for the tax rate of 20% in this Clause is the revenue of the previous year.

3. The rates of enterprise income tax on the exploration and extraction of oil and other rare resources in Vietnam range between 32% and 50% depending on each project and each business establishment.

The Government shall elaborate and provide guidance on the implementation of this Article.”

7. Article 13 is amended as follows:

“Article 13. Tax incentives

1. The tax rate of 10% for 15 years is applicable to:

a) Incomes of enterprises from the execution of new projects of investment in region of exceptional socio-economic difficulties, economic zones, and hi-tech zones;

b) Incomes of enterprises from the execution of new projects of investment, including: scientific research and technology development; application of high technologies in the list of prioritized high technologies according to the Law on High Technologies; cultivation of high technologies, cultivation of hi-tech enterprises; high-risk investment in the development of high technologies in the list of prioritized high technologies according to the Law on High Technologies; investment in crucial infrastructure of the State; software production; production of composite materials, light building materials, rare materials, renewable energy, clean energy, energy from waste destruction; development of biological technology, and environment protection;

c) Incomes of hi-tech enterprises and agricultural enterprises that apply high technologies according to the Law on High Technologies;

d) Incomes of enterprises from the execution of new projects of investment in production (except for the production of articles subject to special excise duties and mineral extraction projects), which meet one of the two criteria below:

- Any project of which the capital is at least 6,000 billion VND that is released within 3 years from the day on which the Investment certificate is issued, and the total revenue reaches at least 10,000 billion VND within 3 years from the first year in which revenue is earned;

- Any project of which the capital is at least 6,000 billion VND that is released within 3 years from the day on which the Investment certificate is issued, and employ more than 3,000 workers.

2. The tax rate of 10% is applicable to:

a) Incomes of private enterprises from investment in education, vocational training, health, culture, sports, and environment;

b) Incomes of enterprises from the investments in social housing that are for sale, for lease, or for hire purchase according to Article 53 of the Law on Housing;

c) Incomes from press agencies from printing newspapers, including advertisements on printed newspapers according to the Law on Press; incomes of publishers from publishing according to the Law on Publishing;

d) Incomes of enterprises from planting, cultivating, and protecting forests; from agriculture, forestry, and aquaculture in region of socio-economic difficulties; from the production, multiplication, and cross-breeding plants and animals; from the production, extraction, and

refinement of salt, except for the production of salt in Clause 1 Article 4 of this Law; from investment in post-harvest preservation of agriculture products, aquaculture products, and food;

dd) Incomes of cooperatives from agriculture, forestry, fisheries, and salt production that are not in region of socio-economic difficulties or region of exceptional socio-economic difficulties, except for incomes of the cooperatives defined in Clause 1 Article 4 of this Law.

3. The tax rate of 20% for 15 years is applicable to:

a) Incomes of enterprises from the execution of new projects of investment in region of socio-economic difficulties;

b) Incomes of enterprises from the execution of new projects of investment, including: production of high-grade steel; production of energy-saving products; production of machinery and equipment serving agriculture, forestry, aquaculture, salt production; production of irrigation equipment; production and refinement of feed for livestock, poultry, and aquatic organism; development of traditional trades.

From January 01, 2016, incomes of the enterprises defined in this Clause are eligible for the tax rate of 17%.

4. The tax rate of 20% is applicable to incomes of people's credit funds and microfinance institutions,

From January 01, 2016, incomes of people's credit funds and microfinance institutions are eligible for the tax rate of 17%.

5. For special projects that need to attract a lot of investment and high technologies, the period of preferential tax rates may be extended, but the extension shall not exceed 15 years.

6. The period of preferential tax rates in this Article begins from the first year in which revenue from the new project of investment is earned; for hi-tech enterprises and agricultural enterprises that apply high technologies, this period begins from the day on which the certificate of hi-tech enterprise or certificate of hi-tech agricultural enterprise is issued; for projects of high technology application, this period begins from the day on which the certificate of hi-tech application project is issued.

The Government shall elaborate and provide guidance on the implementation of this Article.”

8. Article 14 is amended as follows:

“Article 14. Preferential duration of tax exemption and tax reduction

1. Incomes of enterprises from the execution of new projects of investment provided for in Clause 1 and Point a Clause 2 Article 13 of this Law, incomes of hi-tech enterprises, hi-tech agricultural enterprises are eligible for tax exemption for no more than 4 years, and eligible for 50% reduction in tax for no more than the next 9 years.

2. Incomes of enterprises from the execution of new projects of investment provided for in Clause 3 Article 13 of this Law, incomes of enterprises from the execution of new projects of investment in industrial parks, except for industrial parks in advantaged localities, are eligible for tax exemption for no more than 2 years, and eligible for 50% reduction in tax for no more than the next 4 years.

3. The period of tax exemption and tax reduction applicable to incomes of enterprises from the execution of new projects of investment in Clause 1 and Clause 2 of this Article begins from the

first year in which taxable income from projects of investment is earned. If no taxable income is earned in the first three years from the first year in which revenue from the project is earned, the period of tax exemption and tax reduction shall begin from the fourth year. The period of preferential tax rates applicable to hi-tech enterprises and agricultural enterprises that apply high technologies mentioned in Point c Clause 1 Article 13 of this Law begins from the day on which the certificate of hi-tech enterprise or certificate of hi-tech agricultural enterprise is issued.

4. When an enterprise, which has projects of investment in the fields or localities eligible for enterprise income tax incentives according to this Law, expands the production scale, increases the productivity, upgrades production technologies (expansion), it may choose between tax incentives for operating projects for the remaining time (if any) or tax exemption or reduction for the additional incomes from expansion if one of the three criteria in this Clause is satisfied. The period of tax exemption and tax reduction for the additional incomes from expansion in this Clause is equal to the period of tax exemption and tax reduction for new projects of investment in the same field or locality that is eligible for enterprise income tax incentives.

The expansion must satisfy one of the criteria below to be given incentives:

- a) The cost of additional fixed assets reaches at least 20 billion VND when the project of investment is completed and commenced, applicable to expanding investments in the fields eligible for enterprise income tax according to this Law, or at least 10 billion VND, applicable to expanding investments in region of socio-economic difficulties or region of exceptional socio-economic difficulties;
- b) The proportion of cost of additional fixed assets reaches at least 20% of the total cost of fixed assets before investment;
- c) The design production increases by at least 20% of the design production before investment.

When an enterprise invests in expansion in a field or locality eligible for tax incentives according to of this Law but fails to satisfy any criterion above, the tax incentives shall apply to the remaining period of the project (if any).

Where an enterprise is eligible for tax incentives for expansion, the additional income from expansion shall be recorded separately; if it is not able to be recorded separately, the income from expansion shall be determined based on the ration of the cost of new fixed assets to the total cost of fixed assets of the enterprise.

The period of tax exemption and tax reduction in this Clause begins from the year in which the project of investment is finished and its operation is commenced.

The tax incentives in this Clause are not applicable to the extensions on account of merger or acquisition of enterprises or operating projects of investment. The Government shall elaborate and provide guidance on the implementation of this Article.”

9. Clause 3 is added to Article 15 as follows:

“3. Any enterprise that transfers technologies that are prioritized to other organizations and individuals in region of socio-economic difficulties are eligible for 50% reduction in enterprise income tax on the income from technology transfers.”

10. Article 16 is amended as follows:

“Article 16. Transferring loss

1. An enterprise may transfer its loss to the next year; this loss is deducted from assessable income. The period of loss transfer must not exceed 5 years from the year succeeding the year in which the loss is incurred.

2. Any enterprise which is still at a loss after offsetting its loss on transfers of real estate, transfers of projects of investment, transfers of the right to participate in project of investment, according to Clause 3 Article 7 of this Law, and any enterprise which makes a loss from transfers of the right to explore and extract minerals may transfer the loss to the next year and offset it against the assessable incomes from such activities. The period of loss transfer shall comply with Clause 1 of this Article.”

11. Clause 1 of Article 17 is amended as follows:

“1. Any enterprise established and operated within Vietnam’s law may use no more than 10% of the annual assessable income to establish its science and technology development fund. Apart from establishing the science and technology development fund, state-owned enterprise must ensure the minimum amount for the fund according to the laws on science and technology.”

12. Article 18 is amended as follows:

“Article 18. Conditions for tax incentives

1. The enterprise income tax incentives provided for in Article 13, 14, 15, 16, and 17 of this law are applicable to the enterprises that follow the regime for accounting and invoicing, and pay tax according to declarations.

Enterprise income tax incentives for new project of investment defined in Article 13 and Article 14 of this Law are not applicable to division, merger, amalgamation, and conversion of enterprises, change of ownership, and other cases according to law.

2. Enterprises must separate the incomes from the operations eligible for tax incentives defined in Article 13 and Article 14 of this Law from the incomes from the operations that are not eligible for tax incentives; if such incomes are not able to be separated, the income from the operations eligible for tax incentives shall be determined based on the ratio of the revenue from the operations eligible for tax incentives to the total revenue of the enterprise.

3. The tax rate of 20% in Clause 2 Article 10 and the tax incentives in Clause 1 and Clause 4 Article 4, Article 13, and Article 14 of this Law are not applicable to:

a) Incomes from transfer of capital, transfers of the right to contribute capital; incomes from the transfers of real estate, except for social housing specified in Article 13 of this Law; incomes from transfers of projects of investment, transfers of the right to participate in projects of investments, transfers of the right to explore and extract minerals; incomes from operations outside Vietnam;

b) Incomes from the exploration and extraction of petroleum and other rare resources, and incomes from mineral extraction;

c) Incomes from services subject to special excise duty according to the Law on Special excise duty;

d) Other cases decided by the Government.

4. If an enterprise is eligible to multiple tax incentives for the same income at the same time, it may choose the most advantageous incentive.”

Article 2.

1. This Law takes effect on January 01, 2014, except from Clause 2 of this Article.

2. The regulations on the application of the tax rate of 20% to the enterprises of which the total annual revenue does not reach 20 billion VND in Clause 6 Article 1, and the regulations on the application of the tax rate of 10% to the incomes of enterprises from the social housing in Clause 7 Article 1 of this Law takes effect on July 01, 2013.

3. The enterprises having projects of investment that are still eligible for enterprise income tax incentives after the end of the tax period 2013 (tax rate, tax exemption or reduction duration) according to the legislative documents on enterprise income tax before this Law takes effect are still eligible for such incentives for the remaining time according to such documents. Where the conditions for tax incentives in this Law are satisfied, enterprises may choose between the incentives they are having or the incentives in this Law for the remaining time, applicable to new investments or extension.

By the end of the tax period 2015, enterprises having projects of investment that are eligible for the preferential tax rate of 20% in Clause 3 Article 13 of the Law on Enterprise income tax No. 14/2008/QH12 amended in Clause 4 Article 1 of this Law are eligible for the tax rate of 17% for the remaining time from January 01, 2016.

4. The following regulations on enterprise income tax are annulled:

- a) Clause 2 Article 7 of the Law on Deposit insurance No. 06/2012/QH13;
- b) Clause 2 Article 4 of the Law on Health insurance No. 25/2008/QH12;
- c) Clause 1 of Article 10; Clause 1 of Article 12; Clause 2 of Article 18; Clause 2 of Article 19; Clause 1 and Clause 2 of Article 22; Clause 3 of Article 24 and Clause 2 of Article 28 of the Law on High Technologies No. 21/2008/QH12;
- d) Clauses 1, 4, 5, 6, 7, and 8 of Article 44, and Article 45 of the Law on Technology transfers No. 80/2006/QH11;
- dd) Clause 1 of Article 53, Clause 5 of Article 55, and Clause 3 of Article 86 of the Law on Enterprises No. 76/2006/QH11;
- e) Clause 1 of Article 68 of the Law on Vietnamese guest workers No. 72/2006/QH11;
- g) Clause 2 Article 6 of the Law on Social insurance No. 71/2006/QH11;
- h) Clause 3 Article 8 of the Law on Legal Assistance No. 69/2006/QH11;
- i) Clause 3 Article 66 of the Law on Higher Education No. 08/2012/QH13;
- k) Article 34 of the Law on Disabled people No. 25/2008/QH12;
- l) Clause 4 Article 33 of the Law on Investment No. 59/2005/QH11;
- m) Clause 2 of Article 58, Clause 2 of Article 73, Clause 3 of Article 117, and Clause 3 of Article 125 the Law on Enterprises no. 60/2005/QH11.

5. The Government shall elaborate and provide guidance on the implementation of this Law.

This Law is passed by the 13th National Assembly of Socialist Republic of Vietnam in the 5th session on June 19, 2013

PRESIDENT OF THE NATIONAL ASSEMBLY

Nguyen Sinh Hung

**THE NATIONAL
ASSEMBLY**

Law No. 71/2014/QH13

**SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness**

Hanoi, November 26, 2014

LAW

AMENDMENTS TO TAX LAWS

Pursuant to Constitution of Socialist Republic of Vietnam;

The National Assembly promulgates the Law on amendments to The Law on Corporate income tax No. 14/2008/QH12, some Articles of which are amended in Law No. 32/2013/QH13; the Law on Personal income tax No. 04/2007/QH12, some Articles of which are amended in Law No. 26/2012/QH13; the Law on value-added tax No. 13/2008/QH12, some Articles of which are amended in Law No. 31/2013/QH13; the Law on special excise duty No. 27/2008/QH12; the Law on Severance tax No. 45/2009/QH12; the Law on Tax administration No. 78/2006/QH11, some Articles of which are amended in Law No. 21/2012/QH13; the Law on Export and import tax No. 45/2005/QH11; and the Law on Customs No. 54/2013/QH13.

Article 1.

Amendments on some Articles of the Law on Corporate income tax No. 14/2008/QH12, some Articles of which are amended in Law No. 32/2013/QH13.

1. Clause 2 Article 3 is amended as follows:

“2. Other incomes include: income from transfer of capital, transfer of the right to capital contribution; income from real estate transfer, transfer of construction projects, transfer of the right to participate in construction projects, transfer of the right to mineral exploration, mineral extraction, and mineral processing; income from the right to enjoyment of property, right to ownership of property, including income from intellectual property rights defined by law; income from transfer, lease, liquidation of assets, including valuable papers; income from deposit interest, loan interest, sale of foreign exchange; collection of debts that were cancelled; receipts from debts without creditors; incomes from business operation in previous years that were committed, and other incomes.

With regard to Vietnamese companies making investments in the countries with which Vietnam have Double Taxation Agreement and transfer incomes exclusive of corporate income tax paid overseas to Vietnam, regulations of such Double Taxation Agreements shall apply. If investments are made in countries with which Vietnam has not had Double Taxation Agreements, and if corporate income tax incurred in such countries is lower than that imposed by the Law on Corporate income tax of Vietnam, the tax difference shall be paid.

2. Clause 1 Article 4 is amended as follows:

“1. Income from farming, breeding, cultivation and processing of agriculture and aquaculture products, salt production of cooperatives; income of cooperatives engaged in agriculture, forestry, aquaculture, or salt production in disadvantaged areas or extremely disadvantaged areas; income of companies from farming, breeding, cultivation and processing of agriculture and aquaculture products in disadvantaged areas; income from marine fisheries.”

3. Point a Clause 1 Article 9 is amended as follows:

“a) Actual expenditures on business operation of the company; expenditures on vocational education; expenditures on the company’s national defense and security duties as prescribed by law;”.

4. Point m Clause 2 Article 9 is annulled.

5. Point dd and Point e are added to Clause 1 Article 13 as follows:

“dd) Income of a company from execution of a project of investment in manufacturing of products on the List of ancillary products given priority and satisfying one of the following conditions:

- Ancillary products supporting high-technology defined in the Law on High-technology;
- Ancillary products serving the manufacturing of the following industries: textile – garment; leather - footwear; electronic - IT; automobile manufacturing & assembling; mechanical engineering, provided they cannot be manufactured in Vietnam up to January 01, 2015, or can be manufactured in Vietnam and satisfy technical standards established by EU or the equivalent.

The government shall compile the List of ancillary products given priority mentioned in this Point.

e) Income of a company from execution of a project of investment in manufacturing, except for manufacturing of products subject to special excise tax and mineral extraction, the capital investment in which is not smaller than VND 12,000 billion, the technologies applied are assessed in accordance with the Law on High-technology, the Law on Science and Technology, and the registered capital is disbursed within 05 years from the day on which the investment is permitted as prescribed by regulations of law on investment."

6. Point d Clause 2 Article 13 is amended as follows:

“d) Income from a company from: planting, cultivating, protecting forests; cultivating, processing agriculture and aquaculture products in a disadvantaged area; producing forestry products in a disadvantaged area; producing, propagating, cross-breeding plants and animals; producing and refining salt, except for the types of salt defined in Clause 1 Article 4 of this Law; investment in preservation of harvested farm produce, preservation of agriculture products, aquaculture products, and foods;”

7. Clause 3a is added to Clause 1 Article 13 as follows:

“3a. 15% tax is applied to: income of the company from farming, breeding, processing of agriculture and aquaculture products in an area other than disadvantaged areas or particularly disadvantaged areas.”

8. Clause 5 Article 13 is amended as follows:

“5. Extension of preferential tax period:

a) With regard to any special project that needs to attract substantial investment and requires high technologies, the preferential tax period may be extended for up to 15 years.

b) If a project mentioned in Point e Clause 1 of this Article satisfy one of the following conditions:

- The products are able to go into global competition and generate a revenue of more than VND 20,000 billion per year after not more than five years from the first year in which revenue is earned from the project;
- More than 6,000 employees are hired;
- The project of investment involves economic – technical infrastructure, including: investment in water plants, power plants, water supply and drainage systems, bridges, roads, railroad, airports, seaports, river ports, train stations, new energies, clean energies, energy-saving industry, oil refinery.

The Prime Minister shall decide the extension of preferential tax period mentioned in this Point, provided the extension is not longer than 15 years."

9. Clause 3 Article 2 of the Law No. 32/2013/QH13 is amended as follows:

"3. Any company having a project of investment eligible for enterprise income tax incentives according to regulations of law on corporate income tax at the time when the license for investment or certificate of investment is granted. If regulations of law on corporate income tax are changed and the company still satisfies the conditions for concessional tax according to new regulations, it may choose between preferential tax rates and duration of tax exemption/reduction prescribed by the old or new regulations for the remaining period.

At the end of the tax year 2015, if the project of the company is applying the preferential tax rate of 20% prescribed in Clause 3 Article 13 of the Law on Corporate income tax No. 14/2008/QH12, which is amended in Law No. 32/2013/QH13, the company may apply 17% tax for the remaining period from January 01, 2016."

Article 2

Amendments to some Articles of the Law on Corporate income tax, some Articles of which are amended in Law No. 26/2012/QH13.

1. Clause 1 Article 3 is amended as follows:

"1. Incomes from business include:

- a) Incomes from manufacturing, sale of goods or services;
- b) Income from freelance works of individuals having licenses or practicing certificates as prescribed by law.

A sole trader's income of VND 100 million per year or less is not considered income from business prescribed in this Clause."

2. Point c Clause 6 Article 3 is amended as follows:

"c) Prizes won from betting;"

3. Clause 15 and Clause 16 are added to Article 4 as follows:

"15. Income from salaries, remunerations of Vietnamese crewmembers working for foreign shipping companies or Vietnamese shipping companies that provide international transport services.

16. Incomes from provision of goods/services directly serving offshore fishing earned by individuals being ship owners, individuals having the right to use ships, and incomes of crewmembers on ships.”.

4. Article 10 is amended as follows:

“Article 10. Tax incurred by sole traders

1. Sole traders shall pay personal income tax directly on their incomes; tax rates vary depending on the fields, works of the individuals.

2. Revenue means the amounts earned from goods sale, goods processing, commission, payments for service provision during the tax period from manufacturing, sale of goods/services.

If a sole trader fails to determine his/her income, the competent tax authority shall calculate the income in accordance with regulations of law on tax administration.

3. Tax rates:

a) Distribution, supply of goods: 0.5%;

b) Service provision, construction exclusive of building materials: 2%.

Asset lease, insurance brokerage, lottery brokerage, multi-level marketing brokerage: 5%;

c) Manufacturing, transport, services associated with goods, construction inclusive of building materials: 1.5%.

d) Other business activities: 1%.”

5. Article 13 is amended as follows:

“Article 13. Taxable income from capital transfer

1. Taxable income from capital transfer equals (=) selling price minus (-) buying price and other reasonable costs related to the generation of income from capital transfer.

Taxable income from securities transfer is the price of each transfer.

2. Taxable income from capital transfer shall be determined when the transfer is completed as prescribed by law.

The government shall elaborate this Article.”.

6. Article 14 is amended as follows:

“Article 14. Taxable income from real estate transfer

1. Taxable income from real estate transfer is the price of each transfer.

2. The government shall decide the principles and methods for determination of real estate transfer prices.

3. Taxable income from real estate transfer shall be determined when the transfer contract takes effect as prescribed by law.

7. Clause 2 Article 23 is amended as follows:

“2. Tax schedule:

Assessable income	Tax rate (%)
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a) Income from capital investment	5
b) Income from royalties, franchise	5
c) Income from prize winning	10
d) Income from inheritance, gifts	10
dd) Income from capital transfer prescribed in Clause 1 of this Law	20
Income from securities transfer prescribed in Clause 1 Article 13 of this Law	0.1
e) Income from real estate transfer	2

Article 3

Amendments to some Articles of the Law on Value-added tax No. 13/2008/QH12, some Articles of which are amended in Law No. 31/2013/QH13.

1. Clause 3a is added to Clause 3 Article 5 as follows:

“3a. Fertilizers, specialized machinery and equipment serving agricultural production; offshore fishing vessels; feed for cattle, poultry, and other animals;”.

2. Point b Clause 2 Article 8 is amended as follows:

“b) Ores for production of fertilizers; pesticides, and growth stimulants for animals, plants;”.

3. Point c and Point k Clause 2 Article 8 is annulled.

Article 4. Amendments to the Law on Severance tax No. 45/2009/QH12

1. Clause 7 Article 2 is amended as follows:

“7. Natural water, including surface water and underground water, except for natural water used for agriculture, forestry, aquaculture, and salt production.”.

2. Clause 5 Article 9 is amended as follows:

“5. Tax on natural water used by households and individuals for their everyday life is exempt.”.

Article 5

Amendments to some Articles of the Law on Tax administration No. 78/2006/QH11, some Articles of which are amended in Law No. 21/2012/QH13.

1. Clause 1, Clause 1a, and Clause 6 Article 31 is amended as follows:

“1. Taxes that must be declared and paid monthly shall be declared using monthly tax declarations;

1a. Taxes that must be declared and paid quarterly shall be declared using quarterly tax declarations;

“6. The Government shall specify taxes that must be declared monthly, quarterly, annually, and whenever tax is incurred; criteria for determination of taxpayers eligible to declare tax monthly, and tax declarations in each case.”.

2. Article 43 is amended as follows:

“Article 43. Currencies of revenues, expenditures, taxable prices, and taxes

Taxpayers shall determine their revenues, expenditure, taxable prices, and taxes in Vietnam dong, except for the cases in which such amounts may be paid in foreign currencies as prescribed by the Government. If there are revenues, expenditure, taxable prices in foreign currencies, or amounts payable by the taxpayer in foreign currencies, but a competent authority permits payment in VND, foreign currencies shall be exchanged into VND according to the exchange rate at that time.

The Government shall elaborate this Article .”.

3. Clause 11 is added to Article 7 as follows:

“11. Depending on the actual conditions and availability of IT equipment, the Government shall decide whether or not taxpayers have to submit documents attached to the tax declaration, tax payment documents, application for tax refund, and other tax documents that regulatory already have.”.

4. Clause 1 Article 106 is amended as follows:

“1. If a taxpayer pays tax after the deadline, extended deadline, or the deadline written in the notification or tax decision issued by a tax authority, such taxpayer shall pay tax in full and a late payment interest at 0.05% per day on the tax paid behind schedule.

With regard to any taxpayer that provides products or services and gets paid by government budget, if such taxpayer fails to pay tax on schedule because no payments are made by government budget, the taxpayer shall not pay late payment interest on the outstanding tax, which is incurred before payments are made by government budget, provided such outstanding tax does not exceed the amount that is yet to be paid by government budget.”.

Article 6. Implementation

1. This Law takes effect on January 01, 2015.

2. Regulations on exchange rates when determining revenues, expenditure, taxable prices, and taxes in the documents below are annulled:

a) Article 8 and Clause 3 Article 9 of the Law on Corporate income tax No. 14/2008/QH12, some Article of which are amended in Law No. 32/2013/QH13;

b) Clause 1 Article 6 of the Law on Personal income tax No. 04/2007/QH11, some Articles of which are amended in Law No. 26/2012/QH13;

c) Clause 3 Article 7 of the Law on Value-added tax No. 13/2008/QH12, some Articles of which are amended in Law No. 31/2013/QH13;

d) Article 6 of the Law on special excise duty No. 27/2008/QH12;

dd) Clause 3 Article 9 and Article 14 of the Law on Export and import tax No. 45/2005/QH11;

e) Clause 4 Article 86 of the Law on Customs No. 54/2013/QH13.

3. Point c Clause 1 Article 49 of the Law on Tax administration No. 78/2006/QH11, some Articles of which are amended in Law No. 21/2012/QH13 is annulled.

4. Regulations on determination of tax incurred by sole traders in Clause 1 Article 19, Clause 1 Article 20, and Clause 1 Article 21 of the Law on Personal income tax No. 04/2007/QH12, some Article of which are amended in Law No. 26/2012/QH13, are annulled.

5. The Government shall elaborate Clauses and Articles mentioned above.

This Law is passed by the 13th National Assembly of Socialist Republic of Vietnam on November 26, 2014 during the 8th session.

**PRESIDENT OF THE NATIONAL
ASSEMBLY**

Nguyen Sinh Hung

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THE GOVERNMENT

No. 87/2010/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

Hanoi, August 13, 2010

DECREE

DETAILING A NUMBER OF ARTICLES OF THE LAW ON IMPORT DUTY AND EXPORT DUTY

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the June 14, 2005 Law on Import Duty and Export Duty;
Pursuant to the June 29, 2001 Law on Customs, and the June 14, 2005 Law Amending and
Supplementing a Number of Articles of the Law on Customs;
At the proposal of the Minister of Finance,*

DECREES:

Chapter 1

GENERAL PROVISIONS

Article 1. Dutiable objects

Except for goods defined in Article 2 of this Decree, goods in the following cases are liable to import duty or export duty:

1. Goods imported or exported through Vietnam's border gates or border, including goods imported or exported through land or riverway border gates, seaports, airports, transnational railway stations, international post offices or other places of customs clearance set up under decisions of competent state agencies.
2. Goods brought from the domestic market into non-tariff zones or vice versa.

Non-tariff zones include export processing zones, export processing enterprises, warehouses and storing zones of goods pending duty

payment, bonded warehouses, special economic-trade zones, trade-industrial zones, and other economic zones which are established under Prime Minister decisions and have their relations of goods sale and purchase with the outside regarded as import-export relations.

3. Other sold, purchased and exchanged goods which are considered imports or exports.

Article 2. Non-dutiable objects

Goods in the following cases are not liable to import duty or export duty:

1. Goods transited through Vietnam's border gates or borders in accordance with law.
2. Humanitarian aid goods, non-refundable aid goods provided by foreign governments, United Nations organizations, intergovernmental organizations, international organizations, foreign non-governmental organizations (NGOs), foreign economic organizations, or foreigners for Vietnam and vice versa for socio-economic development or other humanitarian purposes under official

documents between the two parties approved by competent authorities; humanitarian aid and emergency relief to remedy consequences of wars, natural disasters and epidemics.

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; goods transported from one non-tariff zone to another;

4. Goods being oil and gas volumes paid to the State as royalties upon exportation.

Article 3. Duty payers; subjects authorized to pay duty, guaranteeing duty payment, and paying duty for others

1. Duty payers specified in Article 4 of the Law on Import Duty and Export Duty include:

a/ Owners of imports or exports;

b/ Organizations importing and exporting goods under others' consignment;

c/ Individuals carrying imported or exported goods upon entry or exit, or sending or receiving goods through Vietnam's border gates or border.

2. Subjects authorized to pay duty, guaranteeing duty payment or paying duty for others include:

a/ Customs procedure clearance agents, if authorized by duty payers to pay import duty or export duty;

b/ Enterprises providing international post services or express delivery services, if paying duty on behalf of duty payers;

c/ Credit institutions or other organizations operating under the Law on Credit Institutions, if guaranteeing duty payment or paying duty on behalf of duty payers under the law on tax administration.

Article 4. Application of treaties

In case a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions on import duty and export duty different from those of this Decree, the provisions of such treaty will prevail.

Article 5. Duty on goods traded or exchanged by border residents

Goods traded or exchanged by border residents are exempt from duty within set quotas; duty must be paid under this Decree for goods in excess of these quotas. The Ministry of Finance shall assume the prime responsibility for, and coordinate with People's Committees of border provinces or centrally run cities and relevant agencies in, submitting to the Prime Minister for promulgation duty-free quotas for goods traded or exchanged by border residents. in each region.

Chapter II

DUTY BASES AND TARIFFS

Article 6. Duty bases

1. For goods items subject to duty rates expressed in a percentage (%). duty bases include:

a/ Actually imported or exported quantity of each goods item indicated in the customs declaration;

b/ Dutiable price of each goods item;

c/ Duty rate applicable to each goods item.

2. For goods items subject to specific duty, duty bases include:

a/ Actually imported or exported quantity of each goods item indicated in the customs declaration:

b/ Specific duty rate set for a goods unit.

3. For goods items which are used for a purpose other than the one for which they are exempt from duty or allowed to be exempt from duty, duty bases include the quantity, dutiable price and duty rate at the time of change of the use purpose.

Article 7. Dutiable prices and exchange rates used for duty calculation

1. Dutiable prices of imports and exports shall be determined under the law on customs valuation.

2. For exports under purchase and sale contracts which have no official price at the time of registration of the customs declaration form or exports without purchase and sale contract, their dutiable prices comply with regulations of the Ministry of Finance.

3. Exchange rates between Vietnamese dong and foreign currencies used to determine dutiable prices are average exchange rates on the inter-bank foreign exchange market announced by the State Bank of Vietnam at the time of duty calculation and published on the "Nhan Dan" daily and the website of the State Bank of Vietnam; for days when the "Nhan Dan" daily is not published or the website is not updated or when foreign exchange rates are not published therein, the foreign exchange rate used for duty calculation will be that of the preceding day.

For foreign currencies of which the average exchange rates on the inter-bank foreign exchange market are not yet announced by the State Bank of Vietnam, the exchange rates shall be determined based on the cross-reference rate between the exchange rate between US dollar (USD) and Vietnam dong (VND) and the exchange rate between US dollar and such a foreign currency announced by the State Bank of Vietnam at the time of duty calculation.

Article 8. Duty payment currency

Import duty and export duty shall be paid in Vietnam dong. In case duty is paid in a foreign currency, duty payers shall pay it in a freely convertible one. Foreign currencies shall be converted into Vietnam dong at the average exchange rates on the inter-bank foreign exchange market announced by the State Bank of Vietnam at the time of duty calculation.

Article 9. Duty rates

1. Duty rates applicable to exports are specified for each goods item in the Export Tariff.

2. Duty rates applicable to imports are specified for each goods item, including preferential duty rates, special preferential duty rates and ordinary duty rates:

a/ Preferential duty rates apply to imports originating from countries, groups of countries or territories which offer the most favored nation treatment in their trade relations with Vietnam. Preferential duty rates are specified for each goods item in the Preferential Import Tariff;

b/ Special preferential duty rates apply to imports originating from countries, groups of countries or territories which offer the most favored nation treatment in their trade relations with Vietnam under the free-trade-area or tariff-alliance regime in order to facilitate border trade, and other cases of special preferential treatment;

Conditions for application of special preferential duty rates:

- Being specified in agreements signed between Vietnam and countries, groups of countries or territories on the implementation of special duty preferences and meeting all conditions stated in such agreements.

- Originating from countries, groups of countries or territories with which Vietnam has reached agreements on special duty preferences.

c/ Ordinary duty rates apply to imports originating from countries, groups of countries or territories which do not offer the most favored nation treatment or special import duty preferences to Vietnam.

Ordinary duty rates are equal to 150% of preferential duty rates applicable to the same goods items specified in the Preferential Import Tariff.

Article 10. Duty-related measures for safeguard, anti-dumping, anti-subsidy and anti-discrimination in the import of goods

In addition to being subject to duty under Clause 2. Article 9 of this Decree, goods excessively imported into Vietnam, subsidized imports, imports dumped into Vietnam, and goods imported from places practicing discrimination against exports of Vietnam are also subject to any of the following duty-related measures:

1. Increasing import duty rates for goods excessively imported into Vietnam as stipulated in the Ordinance on Safeguards in the Import of Foreign Goods into Vietnam;
2. Imposing anti-dumping duty on imports dumped into Vietnam as stipulated in the Ordinance on Anti-Dumping of Imports into Vietnam;
3. Imposing anti-subsidy duty on subsidized imports into Vietnam as stipulated in the Ordinance on Anti-Subsidy of Imports into Vietnam;
4. Imposing anti-discrimination duty on goods imported into Vietnam from countries, groups of countries or territories which practice import duty discrimination or apply other discriminatory measures according to the law on most favored nation treatment and national treatment in international trade.

Article 11. Competence to set export duty rates, import duty rates, specific duties and duty-related measures against discrimination in the import of goods

1. The Ministry of Finance shall set the following duty rates:

- a/ On the basis of state policies on import and export of goods in each period, orientations for development of production industries, market price fluctuations in each period and proposals of organizations and individuals, the Ministry of Finance shall, after consulting ministries and commodity line associations, promulgate legal documents on preferential export duty rates and import duty rates on the following principles:

- Being consistent with the list of dutiable commodity groups and falling within the duty rate brackets promulgated by the National Assembly Standing Committee;
- Contributing to ensuring state budget revenues and stabilizing the market;
- Protecting 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.

b/ On the basis of agreements on special duty preferences for imports already committed by Vietnam, the Ministry of Finance shall, after consulting ministries and commodity line associations, promulgate legal documents on special preferential import duty rates.

2. The Ministry of Finance shall assume the prime responsibility for, and coordinate with concerned agencies in, proposing the Prime Minister to decide on the application of specific duties and anti-discrimination duties in case of necessity.

Chapter III

DUTY EXEMPTION, CONSIDERATION OF DUTY EXEMPTION. DUTY REDUCTION AND DUTY REFUND

Article 12. Duty exemption

Imports or exports are exempt from import duty or export duty in the following cases:

1. Goods temporarily imported for re-export or temporarily exported for re-import for participation in trade fairs, exhibitions or display; machinery, equipment and professional instruments temporarily imported for re-export or temporarily exported for re-import to perform work within a certain period of time.

After the end of trade fairs, exhibitions or displays or after the completion of work according to law, temporarily exported goods must be re-imported into Vietnam and temporarily imported goods must be re-exported.

2. Movable assets brought into or out of Vietnam by Vietnamese or foreign organizations or individuals within allowable quotas, including:

a/ Movable assets brought into Vietnam by organizations or individuals that are permitted to reside or work in Vietnam or brought abroad upon the expiration of their residence or working duration in Vietnam:

b/ Movable assets brought to foreign countries by Vietnamese organizations and individuals for business and working purposes and re-imported into Vietnam upon the expiration of their business or working duration;

c/ Movable assets brought into Vietnam by overseas Vietnamese families or individuals that are permitted to settle in Vietnam or brought abroad by Vietnamese families or individuals that are permitted to settle abroad; movable assets brought into Vietnam by foreigners who are permitted to settle in Vietnam or brought abroad when they are permitted to settle abroad.

3. Imported goods and exported goods of foreign organizations or individuals entitled to diplomatic privileges or immunities in Vietnam;

4. Goods imported for processing for foreign parties are exempt from import duty (including those allowed to be destroyed in Vietnam under law after liquidation of processing contracts) and

processed products exported back to foreign parties are exempt from export duty. Goods exported to foreign countries for processing for Vietnamese parties are exempt from export duty and when processed products are re-imported, they are exempt from import duty on the value of goods exported to foreign countries for processing under contracts.

5. Imported goods and exported goods within duty-free luggage quotas of persons on entry or exit; postal matters and parcels sent by express delivery services which have the minimum dutiable value prescribed by the Prime Minister.

6. Goods imported to create fixed assets of investment projects in domains entitled to import duty preferences listed in Appendix I to this Decree or in geographical areas entitled to import duty incentives, and investment projects funded with official development assistance (ODA) which are exempted from import duty, including:

a/ Equipment and machinery;

b/ Special-use means of transport included in technological lines which cannot be domestically manufactured yet; worker-transporting vehicles including cars of 24 seats or more and waterway crafts;

c/ Components, details, knocked down parts, spare parts, fittings, molds and accessories accompanying machinery, equipment and special-use means of transport stated at Points a and b of this Clause for assembly into complete units;

d/ Raw materials and supplies which cannot be domestically produced yet. to be used for manufacturing equipment and machinery included in technological lines or for manufacturing components, details, knocked down parts, spare parts, fittings, molds and accessories accompanying equipment and machinery stated at Point a of this Clause for assembly into complete units;

e/ Building materials which cannot be domestically produced yet.

7. Plant varieties and animal breeds permitted to be imported for the execution of investment projects in the sectors of agriculture, forestry and fishery.

8. Exemption from import duty for imports specified in Clauses 6 and 7 of this Article also applies to cases of project scale expansion and technology replacement or renewal.

9. Equipment and devices listed in Appendix II to this Decree which are imported for the first time to create fixed assets of projects entitled to import duty incentives and investment projects funded with official development assistance (ODA) capital on hotels, office buildings, apartments for lease, housing, trade and technical service centers, department stores, golf courses, tourist resorts, sports facilities, recreation and entertainment centers, medical examination and treatment, training, cultural, financial, banking, insurance, audit, and consultancy service establishments.

Projects with goods enjoying import duty exemption upon first-time importation specified in this Clause are not entitled to duty exemption provided in other clauses of this Article.

10. Goods imported in service of petroleum activities, including:

a/ Equipment and machinery; special-use means of transport necessary for petroleum activities; worker-transporting vehicles, including cars of 24 or more seats and waterway crafts, including components, details, knocked down parts, spare parts, fittings, molds and accessories

accompanying the aforesaid equipment, machinery, special-use means of transport or worker-transporting vehicles for assembly into complete units or for use:

b/ Supplies necessary for petroleum activities which cannot be domestically produced yet;

c/ Medical equipment and devices and first-aid medicines for use on drilling platforms and floating works, which are certified by the Ministry of Health;

d/ Office equipment and facilities for petroleum activities;

e/ Other goods temporarily imported for re-export for petroleum activities.

11. Shipbuilding establishments are exempt from export duty on exported seagoing vessels, and from import duty on machinery and equipment imported to create their fixed assets; means of transport included in technological lines imported to create fixed assets; and raw materials, supplies and semi-finished products to serve shipbuilding activities, which cannot be domestically produced yet.

12. Raw materials and supplies imported to directly serve the production of software products, which cannot be domestically produced yet, are exempt from import duty.

13. Goods imported for direct use in scientific research and technological development, including machinery, equipment, spare parts, supplies and means of transport which cannot be domestically produced yet, technologies which cannot be domestically produced yet; scientific documents, books and newspapers and journals and electronic scientific and technological information sources are exempt from import duty.

14. Raw materials, supplies and accessories which cannot be domestically produced yet and are imported for production activities of investment projects in domains in which investment is specially encouraged in Appendix I to this Decree or in region of exceptional socio-economic difficulties (excluding projects to manufacture and assemble automobiles, motorcycles, air conditions, electric heaters, refrigerators, washing machines, electric fans, dish washers, disc players, audio systems, electric irons, water kettles, hair dryers, hand dryers and other articles as decided by the Prime Minister) are exempt from import duty for 5 (five) years after the date of commencement of manufacture.

Goods produced, processed, re-processed or assembled in non-tariff zones without the use of raw materials and accessories imported from abroad, when imported into the domestic market, are exempt from import duty; in case of using raw materials and accessories imported from abroad, when imported into the domestic market, only imported raw materials and supplies constituting these goods are liable to import duty.

16. Machinery, equipment and means of transport (excluding under 24-seat cars and cars designed for passenger-cum-cargo transport equivalent to under 24-seat cars) temporarily imported for re-export by foreign contractors for the execution of ODA-funded projects in Vietnam are exempt from import duty upon their temporary import and exempt from export duty upon their re-export.

17. Goods imported for sale at duty-free shops under decisions of the Prime Minister.

18. Geographical areas eligible for import duty preferences mentioned in Clauses 6, 9 and 14 of this Article are those on the list of geographical areas eligible for enterprise income tax preferences (promulgated together with the Government's Decree No. 124/2008/ND-CP of

December 11, 2008, detailing and guiding the implementation of a number of articles of the Law on Enterprise Income Tax) and Decree No. 53/2010/ND-CP of May 19, 2010, stipulating geographical areas eligible for investment incentives and enterprise income tax incentives for administrative units newly established from the Government's adjustment of administrative boundaries.

19. Organizations and individuals importing or exporting goods specified in Clauses 6 thru 17 of this Article shall, when registering customs declarations, determine by themselves and take responsibility before law for the accuracy and truthfulness of goods items eligible for duty exemption.

20. For duty payers meeting with objective difficulties and other cases, the Ministry of Finance shall submit these cases to the Prime Minister for consideration and decision on import duty or export duty exemption on a case-by-case basis.

Article 13. Consideration for duty exemption

Imported goods or exported goods in the following cases may be considered for duty exemption:

1. Special-use goods imported to directly serve national defense, security, education and training, or scientific research (except for the case stated in Clause 13, Article 12 of this Decree) may be considered for import duty exemption.
2. Gifts, presents or sample products given by foreign organizations or individuals to Vietnamese organizations or individuals or vice versa may be considered for duty exemption within allowable quotas.

Article 14. Consideration for duty reduction

Imported goods or exported goods which are damaged or lost in the course of customs supervision, which is certified by competent assessment agencies or organizations, may be considered for duty reduction in proportion to their actual loss or damage. Customs offices shall consider duty reduction on the basis of the assessed and certified quantity of lost goods and the actual damage rate of goods.

Article 15. Import duty or export duty shall be refunded in the following cases:

1. Imported goods currently stored in border-gate warehouses or storing yards and under customs supervision, for which import duty has been paid, are re-exported.
2. Goods for import or export, for which import duty or export duty has been paid, are not imported or exported.
3. Goods for which import duty or export duty has been paid are actually imported or exported in a smaller quantity;
4. For goods imported for export production or export into non-tariff zones, if import duty has been paid, duty amounts corresponding to their percentages in actually exported products shall be refunded, and they are not liable to export duty when they are exported and meet all conditions for determining that they are wholly processed from imported materials.
5. Goods for which import duty has been paid are exported in the following cases:
 - a/ Goods imported and then delivered or sold to foreign parties through Vietnam-based agents;

b/ Goods imported and then sold to vehicles of foreign carriers operating on international routes via Vietnam's ports, and Vietnam's vehicles operating on international routes according to the Government's regulations.

6. Goods temporarily imported for re-export or temporarily exported for re-import, goods imported under consignment for foreign parties then re-exported, for which import duty or export duty has been paid, including imported goods re-exported into non-tariff zones (except for cases specified in Clause 1, Article 12 of this Decree).

7. Exported goods which must be re-imported into Vietnam may be considered for the refund of paid export duty amounts and exemption from import duty.

8. Imported goods which must be re-exported back to their foreign owners or to a third country may be considered for the refund of import duty amounts already paid for the actually re-exported quantity of goods and exemption from export duty.

For machinery, equipment, tools and means of transport of organizations or individuals which are permitted to be temporarily imported for re-export (excluding leased ones) for the execution of investment projects, and construction and installation of works to serve production activities, for which import duty has been paid, import duty shall be refunded upon re-export from Vietnam or export to non-tariff zones. To-be-refunded import duty amounts shall be determined on the basis of the residual use value of the goods upon re-export calculated according to the duration in which such goods are used and kept in Vietnam. In case such goods are no longer usable, the paid duty amounts shall not be refunded.

10. For goods imported or exported through international postal services or express delivery services, for which duty has been paid by service providers on behalf of goods owners but which cannot be delivered to recipients and must be re-imported or re-exported, or which are confiscated or destroyed according to law, the paid duty amounts shall be refunded.

11. Imported goods and exported goods for which import duty or export duty has been paid, but are later exempt from duty under decisions of competent state agencies.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 16. Effect

1. This Decree takes effect on October 1, 2010. and replaces the Government's Decree No. 149/2005/ND-CP of December 8, 2005. detailing the implementation of the Law on Import Duty and Export Duty.

2. Enterprises that make re-registration or registration for change of investment certificates under the Government's Decree No. 101/2006/ND-CP of September 2006. stipulating the re-registration, transformation and registration for change of investment certificates of foreign-invested enterprises under the Law on Enterprises and the Law on Investment are allowed to further enjoy import duty and export duty incentives stated in their investment licenses or certificates granted before the time of re-registration or registration for change of investment certificates. In case an investment license or certificate granted before the time of re-registration or registration for change of the investment certificate does not state any import duty or export duty incentives, the provisions of law on import duty and export duty effective at the time of registration of export and import customs declaration forms will apply. In case an enterprise

makes re-registration or registers for change of its investment certificate concurrently with for expansion of the scale of a project or investment in a new project, or extension of the project implementation time, import duty or export duty incentives applicable to the expanded project scale, investment in a new project or the extended time of project implementation will comply with the provisions of law on import duty and export duty effective at the time of re-registration or registration for change of the investment certificate.

For projects eligible for investment promotion which possess investment licenses or investment incentive certificates stating import duty and export duty incentives higher than the levels provided in this Decree, they will be allowed to enjoy such incentives for the remaining duration; in case their investment licenses or investment incentive certificates state import duty and export duty incentives lower than the levels provided in this Decree, they will be allowed to enjoy the levels provided in this Decree for the remaining duration.

4. For investment projects which possess investment licenses, business registration certificates or investment certificates before the date when the Socialist Republic of Vietnam officially became a member of the World Trade Organization (January 11, 2007) and enjoy import duty and export duty incentives (except for export garments and textiles) because they meet the export rate condition slated in legal documents on foreign investment in Vietnam domestic investment promotion and import duty and export duty, they will be allowed to enjoy such import duty and export duty incentives provided in these legal documents through the end of 2011.

Article 17. Implementation responsibilities

1. The Ministry of Planning and Investment shall promulgate a list of goods items which can be domestically manufactured for use as a basis for import duty exemption provided in Article 12 of this Decree, including:

a/ Materials and supplies used for manufacturing equipment and machines included in technological lines or for manufacturing components, details, knocked-down parts, spare parts, fittings, molds and accessories to be assembled with equipment and machines stated at Point a into complete units; and special-use means of transport stated at Point b and construction supplies stated at Point e. Clause 6 of Article 12;

b/ Supplies necessary for petroleum activities stated at Point b, Clause 10 of Article 12;

c/ Materials, supplies and semi-finished products to serve shipbuilding stated in Clause 11 of Article 12;

d/ Materials and supplies to directly serve the development of software stated in Clause 12 of Article 12;

e/ Machines, equipment, spare parts, supplies, means of transport and technologies to be directly used in scientific research and technology development activities stated in Clause 13 of Article 12;

f/ Materials, supplies and components imported for production activities under projects stated in Clause 14 of Article 12.

2. The Ministry of Science and Technology shall promulgate a list of standards for determining special-use means of transport included in technological lines stated at Point b Clause 6, Point a. Clause 10, and Clause 11. Article 12 of this Decree, and issue criteria for

identifying projects on the list of sectors eligible for import duty incentives provided in Appendix I to this Decree, including:

- a/ Projects to produce precious and rare materials;
- b/ Projects to apply high technologies or new technologies not yet used in Vietnam;
- c/ R&D investment projects accounting for 25% or more of turnover.

3. The Ministry of Agriculture and Rural Development shall promulgate a list of plant varieties and livestock breeds stated in Clause 7. Article 12 of this Decree, and issue criteria for identifying projects on the list of sectors eligible for import duty incentives provided in Appendix I to this Decree, including:

- a/ Projects to build, renovate and upgrade establishments slaughtering, preserving and processing poultry or cattle on a consolidated and industrial scale;
- b/ Projects to build and develop consolidated material zones to serve the processing industry.

4. The Ministry of Industry and Trade shall issue criteria for identifying investment projects on the list of sectors eligible for import duty incentives provided in Appendix I to this Decree, including:

- a/ Projects to manufacture high-grade steel;
- b/ Projects to manufacture lifting devices of large capacity;
- c/ Investment projects to manufacture power generators of large capacity;
- d/ Projects to manufacture equipment and machines for textile, garment and leather industries.

5. The Ministry of National Defense and the Ministry of Public Security shall promulgate lists of goods to be exclusively used for defense and security purposes as a basis for import duty exemption consideration under Clause 1, Article 13 of this Decree.

6. The Ministry of Education and Training shall promulgate a list of goods to be exclusively used for education and training as a basis for import duty exemption consideration under Clause 1. Article 13 of this Decree.

7. The Ministry of Finance shall:

a/ Issue criteria for equipment and machines stated at Point a. components, details, knocked-down parts, spare parts, fittings, molds and accessories to be assembled with equipment, machines and special-use means of transport stated at Point c. Clause 6 of Article 12, and conditions for identifying exports wholly produced from imported materials to be free from export duty stated in Clause 4, Article 15 of this Decree.

b/ Guide in detail the implementation of this Decree.

8. Ministers, heads of ministerial-level agencies and government-attached agencies, chairpersons of provincial-level People's Committees and concerned organizations and individuals shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

APPENDIX I

LISTS OF SECTORS ELIGIBLE FOR IMPORT DUTY INCENTIVES

(To the Government's Decree No. 87/2010/ND-CP of August 13, 2010)

A. LIST OF SECTORS OF SPECIAL INVESTMENT IS PARTICULARLY PROMOTED:

I. Production of new materials and new energies; production of hi-tech, biotechnology and information technology products; mechanical engineering

1. Production of composite materials, light construction materials, and precious and rare materials.
2. Manufacture of high-grade steel, alloys, special metals and porous iron.
3. Investment in the building of power source projects operated by solar energy, wind energy, biogas, geothermal energy and tide.
4. Manufacture of medical equipment used in medical analytical technologies and extracting technologies; orthopedic instruments, wheelchairs and special-use equipment for people with disabilities.
5. Production of semi-conducting substances and hi-tech electronic components; production of key software products and information technology products, and digital information contents.
6. Investment in the production and manufacture of precision tools, industrial production safety inspection and control equipment; industrial robots.

II. Rearing and processing of agricultural, forest and fisheries products; salt making; production of new artificial breeds and plant varieties and livestock breeds

7. Afforestation and forest tending.
8. Agricultural production, afforestation and aquaculture in unclaimed land areas and unexploited water areas.
9. Off-shore fishing.
10. Production of new artificial breeds and plant varieties and livestock breeds.
11. Salt production, mining and refining.

III. Use of high technologies and modern techniques, protection of eco-environment; hi-tech research, development and nursery

12. Application of high technologies and new technologies not yet used in Vietnam; application of biotechnologies.
13. Pollution treatment, environmental protection; manufacture of equipment for treating environmental pollution and for environmental observation and analysis.

14. Collection and treatment of wastewater, exhaust gas and solid wastes; recycling and reuse of wastes.

15. Hi-tech research, development and nursery.

IV. Building and development of infrastructure facilities and important projects

16. Investment in the building and development of infrastructure facilities in hi-tech parks and economic zones and other important projects decided by the Prime Minister.

V Development of education and training. health, physical training and sports

17. Investment in the building of drug and smoking detoxification establishments.

18. Investment in the setting up of anti-epidemic hygiene establishments.

19. Investment in the establishment of geriatric centers, social relief centers and care centers for the disabled and orphans.

20. Investment in the building of high-achievement sports training centers and sports training centers for people with disabilities; building of sports facilities with training and competition equipment meeting requirements of international competitions.

21. Software services, information technology research and training of human resources for information technology.

VI. Other production and service sectors

22. Investment in research and development accounting for 25% or more of turnover.

23. Sea rescue services.

24. Investment in the building of student dormitories; condominiums for workers of industrial parks, export processing zones and hi-tech parks and low-cost houses for low income earners meeting with housing difficulties in urban centers.

B. LIST OF SECTORS OF INVESTMENT IS PREFERENCES

I. Production of new materials and new energies; production of hi-tech, biotechnology and information technology products; mechanical engineering

1. Manufacture of nonferrous metals and cast iron metallurgy.

2. Manufacture of molds for metal products.

3. Investment in the building of power plants and power distribution and transmission networks.

4. Manufacture of medical equipment building of pharmaceutical preservation storehouses and storehouses of reserve medicines for human use in preparation for natural disasters, catastrophes and dangerous epidemics.

5. Manufacture of equipment for testing food toxins.

6. Development of the petrochemical industry.

7. Production of coke and activated charcoal.

8. Production of plant protection drugs, pesticides; drugs for preventing and curing animal and aquatic animal diseases; veterinary drugs; and materials thereof.

9. Production, investment and development of medicines for preventing and treating social diseases; vaccines; bioproducts; medicines from medicinal materials: oriental medicines; and materials thereof; application of advanced technologies and biotechnologies to produce medicines for human use reaching international GMP standards: production of antibiotic materials.

10. Investment in the building of medicine bio-test and usability assessment facilities, pharmaceutical establishments satisfying good practice standards in the production, preservation, test and clinical trial of medicines: and rearing, growing, harvest and processing of medicinal materials.

11. Development of medicinal material sources and the production of medicines from medicinal materials; projects to research and prove scientific grounds of oriental remedies and development of standards for testing oriental remedies.

12. Manufacture of machines, equipment and detail assemblies in the sectors of oil and gas exploitation, mining, energy and cement; manufacture of large-capacity lifting equipment; manufacture of metal-working machines and metallurgical equipment.

13. Investment in the manufacture of medium- and high-voltage electric equipment and high-capacity power generators.

14. Investment in the manufacture of diesel motors; investment in the building and repair of ships; spare parts for freighters and fishing ships: manufacture of machines and spare parts for dynamic and hydraulic machines, and compressors;

15. Manufacture of construction equipment, vehicles and machines; technical equipment for the transport industry; locomotives and carriages,

16. Investment in the manufacture of machine tools, machines, equipment, spare parts and machines for agriculture, silviculture and fishery, food processing machines and irrigation equipment.

17. Investment in the manufacture of equipment and machines for the textile, garment and leather industries.

II. Rearing and processing of agricultural, forest and fisheries products; salt making; production of new artificial breeds and plant varieties and livestock breeds

18. Planting of trees for use as medicinal materials.

19. Investment in the post-harvest preservation of agricultural products, preservation of farm and aquatic products and food.

20. Production of bottled and canned fruit juices.

21. Production and refining of feeds for cattle, poultry and aquatic animals.

22. Technical services of planting industrial and forest trees, husbandry, aquaculture. plant and livestock protection.

23. Production, propagation, cross-breeding and hybridization of plant varieties and animal breeds.

24. Investment in agricultural, forest and fishery product processing.

25. Building, renovation and upgrade of establishments slaughtering, preserving and processing poultry and cattle on a consolidated and industrial scale.

26. Building and development of consolidated material zones to serve the processing industry.

III. Use of high technologies, modern techniques; protection of the eco-environment; hi-tech research, development and nursery

27. Manufacture of equipment to respond to and remedy oil spills.

28. Manufacture of waste-treating equipment.

29. Investment in the building of technical facilities and works; laboratories and testing stations to apply new technologies to production; investment in the establishment of research institutes.

IV. Building and development of infrastructure

30. Investment in the building and development of infrastructure, investment in production to serve the building and development of infrastructure facilities in industrial clusters and points.

31. Investment in building and developing water plants, power plants and water supply and drainage systems; bridges, roads and railways: airport terminals, seaports and river ports: airfields and railway stations.

V. Development of education and training, health, sports, physical training and folk culture

32. Investment in building infrastructure facilities of education and training institutions; investment in building people-founded and private schools and education and training institutions at the levels: preschool education, general education, secondary professional education, vocational training and higher education.

33. Establishment of people-founded and private hospitals.

34. Building of physical training and sports centers, practicing facilities, physical training and sports clubs; and establishments manufacturing, creating and repairing equipment for physical training and sports practicing.

35. Establishment of folk cultural houses: folk song, dance and music troupes; theaters, films studios, film development and printing establishments; production, creation and repair of traditional musical instruments; embellishment and conservation of museums, folk cultural houses and cultural and arts schools.

VI. Other production and service sectors

36. Development of public transport, including transportation by sea and air: transportation by rail; passenger transportation by cars of 24 or more seats; transportation by modern and high-speed inland waterway ships: transportation by container.

37. Production of children's toys.

38. Production of pulp.

39. Weaving, finishing of textile products; production of silk and yarns; leather tanning and preliminary processing.-

APPENDIX II

LIST OF GROUPS OF EQUIPMENT AND FACILITIES EXEMPT FROM DUTY ON FIRST-
TIME IMPORTTATION ONLY

(To the Government's Decree No. 87/2010/ND-CP of August 13, 2010)

1	Water supply systems of all types.
2	Air conditioning and ventilation systems.
3	Fire prevention and fighting systems.
4	Garbage and wastewater treatment systems.
5	Lifting systems (lifts).
6	Washing and laundering systems.
7	Protection equipment systems.
8	Medical machines and equipment
9	Automatic teller machines.

LAW ON IMPORT TAX AND EXPORT TAX
(Law 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 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 items, 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 of 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;
- dd. 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;

dd. Building materials which cannot be produced at home;

e. 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;

dd. 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;

e. 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 therefore; 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 therefor, 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, shall have to fully pay tax.

The Government shall specify cases subject to collection of tax arrears, bases for calculation of tax arrears and time limits for declaration and payment of tax arrears defined in this Article.

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

Taxpayers 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 to the provisions of law.

Article 24 – Handling of violations committed by customs officer 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 therefore 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 provision 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 on the Socialist Republic of Vietnam at its 7th session.

CHAIRMAN OF THE NATIONAL ASSEMBLY

Nguyen Van An

MINISTRY OF FINANCE

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 38/2015/TT-BTC

Hanoi, March 25, 2015

CIRCULAR

**ON CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION, EXPORT
TAX, IMPORT TAX, AND TAX ADMINISTRATION APPLIED TO EXPORTED AND
IMPORTED GOODS**

Pursuant to the Law on Customs No. 54/2014/QH13 dated June 23, 2014;

Pursuant to the Law on Export and import tax No. 45/2005/QH11 dated June 14, 2005;

*Pursuant to the Law on Tax administration No. 78/2006/QH11 dated November 29, 2006; the
Law No. 21/2012/QH13 dated November 20, 2012 on amendments to the Law on Tax
administration; the Law No. 71/2014/QH13 on amendments to tax laws;*

Pursuant to the Law on Commerce No. 36/2005/QH11 dated June 14, 2005;

Pursuant to the Law on Electronic transactions No. 51/2005/QH11 dated November 29, 2005;

*Pursuant to the Law on Value-added tax No. 13/2008/QH12 dated June 03, 2008; Law No.
31/2013/QH13 dated June 19, 2013 on amendments to the Law on Value-added tax No.
13/2008/QH12;*

Pursuant to the Law on special excise duty No. 27/2008/QH12 dated November 14, 2008;

*Pursuant to the Law on Environmental protection tax No. 57/2010/QH12 dated November 15,
2010;*

*Pursuant to the Government's Decree No. 08/2015/NĐ-CP dated January 21, 2015 on guidelines
for the Law on Customs in terms of customs procedure, customs supervision and inspection;*

*Pursuant to the Government's Decree No. 12/2015/NĐ-CP dated February 12, 2015 on
guidelines for the Law on amendments to tax laws and Decrees on taxation;*

*Pursuant to the Government's Decree No. 87/2010/NĐ-CP dated August 13, 2010, detailing the
implementation of a number of articles of the Law on Export and import tax;*

*Pursuant to the Government's Decree No. 83/2013/NĐ-CP dated July 22, 2013 guidelines for the
Law on Tax administration and the Law on amendments to the Law on Tax administration;*

Pursuant to the Government's Decree No. 187/2013/NĐ-CP dated November 20, 2013 on guidelines for the Law on Commerce in terms of international trading, brokerage, processing, and transit of goods with other countries;

Pursuant to the Government's Decree No. 209/2013/NĐ-CP dated December 18, 2013 on guidelines for the Law on Value-added tax;

Pursuant to the Government's Decree No. 26/2009/NĐ-CP dated March 16, 2009 on guidelines for the Law on special excise duty and the Government's Decree No. 113/2011/NĐ-CP dated December 08, 2011 on amendments to Decree No. 26/2009/NĐ-CP;

Pursuant to the Government's Decree No. 67/2011/NĐ-CP dated August 08, 2011 on guidelines for some Articles of the Law on Environmental protection tax and the Government's Decree No. 69/2012/NĐ-CP dated September 14, 2012 on amendments to Clause 3 Article 2 of Decree No. 67/2011/NĐ-CP;

Pursuant to the Government's Decree No. 23/2007/NĐ-CP dated February 12, 2007 on guidelines for the Law on Commerce in terms of goods trading and activities directly related to goods trading of foreign-invested companies in Vietnam;

Pursuant to the Government's Decree No. 29/2008/NĐ-CP dated March 14, 2008 on industrial parks, export-processing zones, and economic zones;

Pursuant to the Government's Decree No. 164/2013/NĐ-CP dated November 13, 2013 on amendments to Decree No. 29/2008/NĐ-CP dated March 14, 2008 on industrial parks, export-processing zones, and economic zones;

Pursuant to the Government's Decree No. 215/2013/NĐ-CP dated December 23, 2013 defining the functions, tasks, entitlements and organizational structure of the Ministry of Finance;

At the request of the Director of the General Department of Customs,

The Minister of Finance promulgates a Circular on customs procedures, customs supervision and inspection, export tax, import tax, and tax administration applied to exported and imported goods.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Circular deals with customs procedures, customs supervision and inspection, export tax, import tax, and tax administration applied to exported and imported goods.

2. Other instructions of the Ministry of Finance on customs procedures, customs supervision and inspection shall apply to the following types of exported and imported goods:

- a) Exported and imported goods sold at tax-free shops;
- b) Postal packages exported or imported via postal network; exported or imported goods sent by express mail;
- c) Petrol, oil; materials of petrol, oil exported, imported, or temporarily imported for re-export;
- d) Gases and liquefied petroleum gas exported, imported, temporarily imported for re-export, or transited; imported materials for production and preparation of gases and liquefied petroleum gas; imported materials for processing gases and liquefied petroleum gas to be exported.

3. Exported or imported goods of enterprises eligible for customs priority shall be given priority when following customs procedures, during customs supervision, inspection and tax administration under this Circular.

Article 2. Rights and obligations of declarants, taxpayers; responsibilities and entitlements of customs authorities and customs officials

1. Apart from the rights and obligations prescribed in Article 18 of the Law on Customs; Article 6, Article 7, and Article 30 of the Law on Tax administration No. 78/2006/QH11, which is amended in Clause 3 and Clause 4 of Article 1 of the Law No. 21/2012/QH13; Article 5 of the Decree No. 83/2013/ND-CP, customs declarants and taxpayers are responsible for making customs declarations, additional declarations, and use goods as declared as follows:

- a) Provide full, accurate, and truthful information on the customs declaration and documents to be submitted or presented as prescribed by law, declare the basis related to tax calculation or consideration for exemption, reduction, refund, cancellation of export duty, import tax, special excise tax, value-added tax (VAT), environmental protection tax (except for declaration of tax rates and tax payable on goods that are not subject to tax);
- b) Declare and take responsibility for declaration of amounts of export tax, import tax, special excise tax, VAT, environmental protection tax payable, exempted, reduced, refunded, or cancelled as prescribed by law; declare tax payable on the deposit slip in accordance with regulations of the Ministry of Finance on collection, payment of taxes and other amounts on exported or imported goods;
- c) With regard to exported or imported goods not subject to export tax, import tax, special excise tax, VAT, environmental protection tax, or eligible for exemption of export tax, import tax, or eligible for preferential tariff, tax rates within tariff-rate quota, if the declaration has been made but the quantity of goods not subject to tax or the purpose of tax exemption, application of preferential tariff, or tax rates within tariff-rate quota is changed; imported materials/supplies serving manufacture of goods to be re-exported, goods temporarily imported that are sold

domestically instead of being re-exported, the taxpayer must make a customs declaration of the goods that are repurposed or sold domestically as prescribed in Article 21 of this Circular;

d) Appoint representatives to follow customs procedure and other administrative procedures at the customs authority.

2. Inheritance of rights and fulfillment of tax liabilities of enterprises established after restructuring prescribed in Article 55 of the Law on Tax administration:

a) The new enterprise is responsible for inheriting the rights and benefits related to taxes, preferential customs procedures and procedures for paying taxes on imported goods of the old enterprise;

b) The consolidated enterprise, acquired enterprise, or transferor enterprise shall apply the 275-day time limit for tax payment to materials and supplies imported for manufacturing goods to be exported as prescribed in Article 38 of the Decree No. 83/2013/NĐ-CP and Clause 1 Article 42 of this Circular in the following cases:

b.1) Both the consolidating companies/acquired companies and the consolidated company/acquirer satisfies conditions;

b.2) Both the new enterprise derived from the partial or total division (transferee company) and the transferor company satisfies conditions.

c) The consolidating company, acquired company, and transferee company in other cases: the Directors of Customs Departments of provinces (hereinafter referred to as “Customs Departments”) where the enterprise’s headquarter is situated shall consider applying the 275-day time limit as prescribed in Article 38 of the Decree No. 83/2013/NĐ-CP and Clause 1 Article 42 of this Circular.

3. Customs authorities and customs officials shall perform the duties and entitlements prescribed in Article 19 of the Law on Customs, Article 8 and Article 9 of the Law on Tax administration, which is amended in Clause 5 and Clause 6 Article 1 of the Law No. 21/2012/QH13.

Article 3. Submission, certification, and use of documents enclosed with the customs dossier, tax dossier

1. The declarant, taxpayer is not required to submit the customs declaration of exported or imported goods (hereinafter referred to as “customs declaration”) when requesting the customs authority to initiate procedures for conditional tax exemption, tax reduction, tax refund, tax cancellation settlement of overpaid late payment interest, overpaid fine, tax deferral, tax payment in instalments, certification of fulfillment of tax liabilities, cancellation of outstanding tax, late payment interest, or fines, except for paper-based customs declaration.

2. Documents enclosed with the customs dossier, additional declaration dossier, application for registration of list of tax-free goods, reports on use of tax-free goods, application for tax

exemption, tax reduction, tax refund, tax cancellation, application for settlement of overpaid tax, late payment interest, or fine, application for tax deferral, application for tax payment in instalments, application for certification of fulfillment of tax liabilities, application for cancellation of outstanding tax, late payment interest, or fine that is submitted to the customs authority directly or via customs electronic data processing system as prescribed by the Director of the General Department of Customs. If original copies must be submitted, the declarant shall submit them to the customs authority directly or by post.

When examining the documents, the customs authority shall use documents of electronic customs dossiers and information on customs electronic data processing system to make comparison.

3. In case of paper-based customs declaration or customs dossier are photocopies, the declarant or taxpayer may submit original copies or photocopies. In case of photocopies or documents issued by foreigners in the form of digital copies, fax, telex, or documents issued by the declarant or taxpayer, the declarant or taxpayer shall make certification, append the signature, seal, and take responsibility for the accuracy, truthfulness, and legitimacy of such documents. If the photocopy consists of multiple sheets, the declarant or taxpayer shall make certification, append the signature and seal on the first page as well as other sheets.

4. If the language of the documents mentioned in Clause 1, Clause 2, and Clause 3 of this Article is not Vietnamese or English, the declarant or taxpayer must provide their Vietnamese translations and take responsibility for such translations.

5. The declarant shall retain documents prescribed in Clause 2 of this Article and accounting books for a sufficient period of time prescribed by regulations of law on accounting. Besides, the declarant must retain other documents related to exported or imported goods for 05 years, including transport documents of exported goods, packing lists, technical documents, documents related to the quotas for inward processing and manufacturing of goods for export.

The declarant must keep original copies of the said documents (unless they have been submitted to the customs authority). Digital documents shall be kept in the digital form or converted into paper documents as prescribed by regulations of law on electronic transactions.

Article 4. Following customs procedures overtime, on days off and public holidays

1. The customs authority shall carry out customs procedure on days off, public holidays, and overtime to ensure timely handling of exported or imported goods, entry and exit of people and means of transport, or according to declarants' prior notices made via the customs electronic data processing system or in writing (fax permitted) as prescribed in Clause 4 Article 23 of the Law on Customs. The notice must be sent to the customs authority during working hours. As soon as the notice is received, the customs authority shall feedback the declarant via the System or in writing of the time for following customs procedure overtime, on days off, or public holidays. Article 23 of the Law on Customs.

2. If working hours are over while the customs authority is checking documents or carrying out physical inspection of goods, the tasks shall be carried on until they are done without the declarant making a written request. Time limit for inspection is specified in Clause 2 Article 23 of the Law on Customs.

3. At land border checkpoints, customs procedures carried out overtime must be suitable with the opening and closing time of the border checkpoint (hereinafter referred to as “checkpoint”) prescribed by law and international agreements between Vietnam and bordering countries.

Article 5. Use of digital signatures during electronic customs procedures

1. Digital signatures used during electronic customs procedures must satisfy the following conditions:

a) The digital signature is corresponding with the digital certificate provided by a recognized public or foreign provider of digital signature authentication services as prescribed in Decree 170/2013/NĐ-CP;

b) The provider of digital signature authentication services prescribed in Point a Clause 1 of this Article must be on the list of providers of digital signature authentication services that are certified to compatible with the customs electronic data processing system and posted on www.customs.gov.vn.

2. Before a digital signature is used for electronic customs procedures, the declarant must register it with the customs authority.

In case the declarant follows electronic customs procedures via a customs brokerage agent or entrusts the export/import, the customs brokerage agent or the trustee must use the account and digital signature of the customs brokerage agent or the trustee.

3. The declarant must register changes of information about the digital signature with the customs authority if the registered information is changed, the digital certificate is renewed, the key is changed, or the digital certificate is suspended.

4. The registration, change or cancellation of information about the digital signature registered with the customs authority shall follow the instructions in Appendix I enclosed herewith.

5. The registered digital signature of the declarant shall be used when following electronic customs procedures nationwide.

Article 6. Customs electronic data processing system

1. Customs authorities are responsible for development, management, operation, and use of the Customs electronic data processing system (hereinafter referred to as “the System”).

2. Other organizations and individuals, within the area of their competence, are responsible for providing, exchanging information about export and import of goods with customs authorities according to applicable regulations of law.

3. The following entities are permitted to access and exchange information with the System:

- a) Customs officials;
- b) Customs declarants;
- c) Providers of value added services recognized by customs authorities;
- d) Regulatory agencies related to licensing, line management of exported or imported goods; issuance of Certificates of origin (CO);
- dd) The agencies that monitor tax administration and price management of exported or imported goods;
- e) Credit institutions that have entered into agreements on collection, payment of taxes, charges, and other state budget revenues related to export and import with the General Department of Customs; credit institutions or organizations operating under the Law on credit institutions that provide guarantee for declarants' tax payment;
- g) The port/warehouse/depot operator;
- h) Other organizations and individuals prescribed by the General Department of Customs.

4. Provision of accounts to assess the System:

- a) The entities prescribed in Clause 3 of this Article shall be provided with accounts to access the System as prescribed by customs authorities;
- b) The access to the System must ensure State secrets and confidentiality of information of the persons who follow customs procedures as prescribed by law.

5. Any entity that makes customs declarations via the System must satisfy the following conditions:

- a) The entity has registered for connection with the System to be provided with an account and information for connection. Any change or cancellation of the registration information must be promptly notified to the customs authority. The registration, change or cancellation of registration information shall follow the instructions in Appendix I enclosed herewith.
- b) The entity has adequate technical infrastructure for electronic transaction, ensure the transmission, receipt, storage of information when accessing and exchanging information with the System; uses electronic customs declaration software that is provided by the customs

authority (if any) or inspected and certified suitable with requirements of customs authority and compatible with the System by the General Department of Customs. The General Department of Customs shall issue Decisions to recognize electronic customs declaration software and post them on the website of customs authorities.

Article 7. Application for prior determination of HS codes, origin, customs value

1. An application for prior determination of HS codes consists of:

- a) The application form No. 01/XĐTMS/TXNK in Appendix IV enclosed herewith: 01 original copy;
- b) Samples of goods to be exported or imported.

If samples are not available, the applicant must provide technical documents (composition analysis, catalogue, goods pictures), detailed description of the composition, characteristics, structure, functions, and operation methods of goods: 01 original copy.

2. An application for prior determination of origin consists of:

- a) An application form No. 01/XĐTXX/GSQL in Appendix V enclosed herewith: 01 original copy;
- b) A list of working days used for manufacture of goods such as information such as: names, codes of goods, origin of materials, CIF prices or equivalent prices of materials provided by the manufacturer or exporter: 01 original copy;
- c) A description of the entire manufacturing process or Certificate of analysis provided by the manufacturer: 01 photocopy;
- d) The catalogue or pictures of goods: 01 photocopy.

3. An application for prior determination of customs value consists of:

- a) An application form no. 02/XĐTTG/TXNK in Appendix VI enclosed herewith: 01 original copy;
- b) A sale contract directly entered into by the applicant (if any): 01 photocopy;
- c) Technical documents, pictures, or catalogue of goods: 01 photocopy;
- d) Documents related to the transaction (if any): 01 photocopy;
- dd) Relevant documents in case the invoice value of exported goods must be converted to practical selling prices at the checkpoint of export: 01 photocopy.

If there are no practical transactions yet, the applicant does not have the documents mentioned in Points b, d, dd of this Clause, the applicant shall request the customs authority to provide instructions on rules and conditions for applying the method of customs valuation.

4. An application for prior determination of prices consists of:

a) An application form no. 02/XĐTTG/TXNK in Appendix VI enclosed herewith: 01 original copy;

b) A sale contract directly entered into by the applicant or an equivalent document: 01 photocopy;

c) Documentary evidence of payment via a bank: 01 photocopy;

d) The bill of lading or equivalent transport documents as prescribed by law (unless goods are imported through a land checkpoint, goods traded between a free trade zone and the domestic market): 01 photocopy;

dd) Technical documents, pictures, or catalogue of goods: 01 photocopy;

e) Documents related to the transaction (if any): 01 photocopy.

If the applicant does not have the documents mentioned in Points b, c, d of this Clause yet, the applicant shall request the customs authority to provide instructions on rules and conditions for applying the method of customs valuation.

Chapter II

CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION, EXPORT TAX, IMPORT TAX, AND TAX ADMINISTRATION APPLIED TO EXPORTED AND IMPORTED GOODS

Section 1. Risk management in customs supervision and inspection

Article 8. Assessment of conformity with law of exporters and importers

1. Customs authorities shall assess and classify enterprises engaged in export, import, and transit of goods by their conformity with regulations of law on customs and taxation. Accordingly, enterprises shall be classified as:

a) Preferred enterprises;

b) Conformable enterprises;

c) Unconformable enterprises;

2. Criteria for assessing conformity with law of enterprises are based on the System of information criteria prescribed in Clause 1 Article 14 of the Government's Decree No. 08/2015/NĐ-CP dated January 21, 2015.

3. Customs authorities shall provide information about assessment of conformity with law prescribed in Clause 2 hereof; provide support and instructions for enterprises to improve their conformity with law.

Article 9. Application of various modes of goods inspection during while goods are being handled, transported, stored at warehouses, depots, ports, or checkpoint areas

1. The physical inspection of exported or imported goods while they are being handled, transported, stored at warehouses, depots, ports, or checkpoint areas are decided according to the following risk management criteria:

- a) The goods owner, carrier, consignee, and relevant entities;
- b) Characteristics of goods; transport route, means of transport, and relevant factors of exported or imported goods;
- c) Not more than 01% of exported or imported goods that are gathered, loaded, unloaded at the checkpoint area are selected.

2. Pursuant to Clause 1 of this Article, the Director of the General Department of Customs shall decide inspection of goods using container scanners or other devices via the System. Directors of Sub-departments of Customs in charge of the warehouse, depot, port, or checkpoint shall carry out the inspections.

Article 10. Application of various modes of customs inspection customs procedures for exported or imported goods

1. General principles:

- a) The determination of goods that need physical inspection depends on risk management via classification of the System: the Director of Sub-department of Customs shall decide the inspection according to the classification notification of the System and carry out random inspections to assess the conformity of declarants in accordance with regulations and instructions of the Director of the General Department of Customs, according to which physical inspection of goods prescribed in Article 29 of this Circular is carried out.
- b) Inspection of goods under line management shall be carried out in accordance with corresponding regulations of laws; the whole shipment shall undergo physical inspection if violations against regulations of law on customs are suspected.

2. Another Circular of the Ministry of Finance shall apply to customs inspection on exported, imported, transited goods of preferred enterprises.

3. Customs inspection of exported, imported, and transited goods of conformable enterprises shall be carried out as follows:

a) Documents shall be inspected directly in the following cases:

a.1) Violations against regulations of law on customs are suspected;

a.2) Not more than 5% of goods on the customs declaration is selected on the basis of risk analysis and assessment;

a.3) Direct document inspection must be carried out as prescribed by corresponding regulations of law.

b) Physical inspection of goods shall be carried out in the following cases:

b.1) Violations against regulations of law on customs are suspected;

b.2) Not more than 1% of goods on the customs declaration is selected on the basis of risk analysis and assessment;

b.3) Physical inspection of goods must be carried out as prescribed by corresponding regulations of law.

c) Customs authority shall assess conformity of conformable enterprises as prescribed in Clause 2 Article 11 of this Circular.

4. Customs inspection of exported, imported, and transited goods of unconformable enterprises shall be carried out as follows:

a) Documents shall be inspected directly in the following cases:

a.1) Violations against regulations of law on customs are suspected;

a.2) Direct document inspection must be carried out as prescribed by corresponding regulations of law;

a.3) Not more than 50% of documents of the total quantity on the customs declaration is selected on the basis of risk analysis and assessment.

b) Physical inspection of goods shall be carried out in the following cases:

b.1) The cases mentioned in Point b.1 and Point b.3 Clause 3 of this Article;

b.2) Not more than 20% of total amount of goods on the customs declaration is selected on the basis of risk analysis and assessment.

Article 11. Application of risk management to post-clearance inspection

1. Post-clearance inspection based on risk management prescribed in Clause 1 and Clause 2 Article 78 of the Law on Customs is carried out according to the following criteria:

- a) The declarant is suspected of committing violations against regulations of law on customs or taxation during exportation or importation;
- b) There are signs that the declarant is at risk of conformity with regulations of law on customs or taxation during exportation or importation;
- c) The declarant exports or imports goods on the list of risk goods without undergoing inspection while following customs procedures.

2. Not more than 5% of conformable enterprises shall undergo inspection of conformity with law as prescribed in Clause 3 Article 78 of the Law on Customs according to the following criteria:

- a) Level of conformity, scale, business lines, type of business, and operating duration of the exporter or importer;
- b) Frequency and time of inspections while during the process of customs procedures, post-clearance inspection, customs inspection of exporters and importers;
- c) Policies on goods management and taxation applied to exported or imported goods;
- d) Characteristics, origins of exported or imported goods;
- d) Other factors related to export and import activities.

Article 12. Application of risk management to customs supervision of exported, imported, and transited goods

1. Customs supervision methods shall be selected according to the following criteria:

- a) Policies on goods management and taxation applied to exported, imported, and transited goods;
- b) Business lines, type of business, operating duration, routes, locality, means of transport and storage of exported, imported, and transited goods;
- c) Characteristics, origins, frequency, and level of violations related to exported, imported, and transit goods;
- d) Other regulations on management of exported, imported, and transit goods.

2. The pivotal subject of customs supervision shall be selected according to the criteria mentioned in Clause 1 of this Article and level of conformity of the goods owner, carrier, and relevant entities.

Article 13. Application of risk management to luggage of individuals upon their entry, exit, and transit

The subject of inspection is selected according to the following criteria:

1. Frequency and seriousness of violations committed by the individual.
2. The background, history of entry, exit, transit, locations, time, routes, means of transport, tickets, ID papers, and other factors related to the entry, export, or transit.
3. Gestures, actions, words, attitude, and psychological manifestation of the individual during the process of entry, exit, or transit.
4. Characteristics of packaging, weight, value, location, time, route, means of transport, and other factors related to the transport of the individual's luggage upon his/her entry, exit, or transit.

Article 14. Risk management applied to enterprises that are dissolved, bankrupt, shut down, suspended, missing, or whose Certificates of Business registration are revoked

1. The customs authority shall not refuse registration of customs declarations of exported, imported, and transit goods of enterprises that have been dissolved, bankrupt, shut down, suspended, missing, or whose Certificates of Business registration is revoked as confirmed by the tax authority, unless otherwise prescribed by law.

If a enterprise has been suspended or missing as confirmed by the tax authority, it is required to have the tax authority's confirmation that the enterprise has registered for resumption of operation and fully complied with regulations of law on taxation and accounting in order to have the registration of customs declarations accepted.

2. The General Department of Customs shall cooperate with General Department of Taxation in collecting information, making and managing lists of enterprises that are dissolved, bankrupt, shut down, suspended, missing, or whose Certificates of Business registration are revoked to serve risk management prescribed in this Article.

Article 15. Responsibilities of the Director of the General Department of Customs for application of risk management

The Director of the General Department of Customs is responsible for promulgating and organizes the uniform implementation of:

1. Indexes according to the criteria prescribed in Clause 2 Article 8, Article 9, Article 10, Article 11, Clause 1 Article 12, Article 13, and Article 14 of this Circular, and other regulations of the Ministry of Finance to satisfy requirements of customs management and tax administration.
2. Risk management measures and services in customs operation.
3. Procedures and guidelines for application of risk management to customs services.

Section 2. Customs declaration

Article 16. Customs dossier

1. A customs dossier of exported goods consists of:

a) A declaration of exported goods that contains the information mentioned in Appendix II enclosed herewith.

In case of paper-based customs declaration prescribed in Clause 2 Article 25 of Decree No. 08/2015/NĐ-CP, the declarant shall make and submit 02 original copies of the declaration of exported goods using form No. HQ/2015/XK in Appendix IV enclosed herewith;

b) Export license (if required): 01 original copy if partial shipments are not permitted, or 01 photocopy enclosed with a monitoring sheet if partial shipments are permitted;

c) A notice of exemption from inspection or inspection result issued by a specialized agency as prescribed by law: 01 original copy.

If the single-window system is applied to the documents mentioned in Point b and Point c of this Clause, the regulatory body shall send the export license, the notice of inspection result or exemption from inspection by a specialized agency in the digital form to the National Single-window Information Portal. The declarant is not required to submit such documents when following customs procedures.

2. A customs dossier of imported goods consists of:

a) A declaration of imported goods that contains the information mentioned in to Appendix II enclosed herewith.

In case of paper-based customs declaration prescribed in Clause 2 Article 25 of Decree No. 08/2015/NĐ-CP, the declarant shall make and submit 02 original copies of the declaration of imported goods using form No. HQ/2015/NK in Appendix IV enclosed herewith;

b) Commercial invoices (if the buyer has to pay the seller): 01 photocopy.

If the goods owner buys goods from a seller in Vietnam and is instructed by the seller to receive goods overseas, the customs authority shall accept the invoice issued by the seller in Vietnam to the goods owner.

The declarant is not required to submit the commercial invoice in the following cases:

b.1) The declarant is a preferred enterprise;

b.2) Goods are imported to execute a processing contract with a foreign trader. In this case, the declarant shall declare the provisional price in box “Trị giá hải quan” (“customs value”) on the customs declaration;

b.3) Goods are imported without invoices and the buyer is not required to pay the seller. In this case, the declarant shall declare the customs value as instructed by the Ministry of Finance.

c) The bill of lading or equivalent transport documents if goods are transported by sea, air, railroad, or multi-modal transport as prescribed by law (unless goods are imported through a land checkpoint, goods traded between a free trade zone and the domestic market, imported goods carried in the luggage upon entry): 01 photocopy;

With regard to goods serving petroleum exploration and extraction transported on service ships (not commercial ships), the cargo manifest shall be submitted instead of the bill of lading;

d) Import license (if required); import license under tariff-rate quota: 01 original copy if partial shipments are not permitted, or 01 photocopy enclosed with the monitoring sheet if partial shipments are permitted;

dd) A notice of exemption from inspection or inspection result issued by a specialized agency as prescribed by law: 01 original copy.

If the single-window system is applied to the documents mentioned in Point d and Point dd of this Clause, the regulatory body shall send the import license, the notice of inspection result or exemption from inspection by a specialized agency in the digital form to the National Single-window Information Portal. The declarant is not required to submit such documents when following customs procedures.

e) Value declaration: the declarant shall make the value declaration using the set form and send it to the System in digital form or submit 02 original copies to the customs authority (in case of paper-based customs declaration). The cases in which the value declaration is required and the value declaration form are provided in the Circular of the Ministry of Finance on customs valuation of exported goods and imported goods;

g) Documents certifying origins of goods (Certificate of Origin or Self-certification of origin): 01 original copy or digital forms in the following cases:

g.1) Goods originate in a country or group of countries that enter agreements in application of preferential tariff with Vietnam under Vietnam's law and international agreements to which Vietnam is a signatory, if the importer wishes to apply such preferential treatment;

g.2) Goods that threaten social safety, public health, or environmental safety and need controlling as announced by Vietnam or international organizations;

g.3) Goods are imported from the countries that are apply anti-dumping taxes, countervailing tax, anti-discrimination tax, safeguard tax, and taxes applied within tariff-rate quota;

g.4) Imported goods must comply with regulations on import management of Vietnam's law or the International Agreements to which Vietnam is a signatory.

In case an agreement on application of preferential tariff with Vietnam or an international agreement to which Vietnam is a signatory require the submission of the C/O in the digital form or documents certifying goods origins of the manufacturer/exporter/importer, the customs authority shall accept such documents.

3. Customs dossiers of exported/imported goods eligible for exemption of export tax/import tax:

a) If goods are exempted from export tax, apart from the documents mentioned in Clause 1 of this Article, the declarant shall submit 01 photocopy and present the original of the list of tax-free goods together with the monitoring sheet registered with the customs authority (if registration is required as prescribed in Clause 1 Article 104 of this Circular).

If the list of tax-free goods must be registered on the System, the declarant is not required to submit the list and the monitoring sheet. However, the information mentioned in Appendix II of this Circular must be fully declared;

b) If goods are exempted from import tax as prescribed in Article 103 of this Circular, the declarant shall submit or present the following documents apart from the documents mentioned in Clause 2 of this Article:

b.1) The list of tax-free goods enclosed with the monitoring sheet registered with the customs authority (if registration is required as prescribed in Clause 104 Article 01 of this Circular): submit 01 photocopy and present the original for comparison.

If the list of tax-free imported goods is registered on the System, the declarant is not required to submit the list and the monitoring sheet. However, the information mentioned in Appendix II of this Circular must be fully declared;

b.2) Documents about transfer of goods eligible for tax exemption in case the goods of an entity eligible for tax exemption are transferred to another entity who is also eligible for tax exemption: submit 01 photocopy.

4. Customs dossiers of exported/imported goods that are not subject to tax:

If exported/imported goods are not subject to tax, the declarant shall submit or present the following documents apart from the documents mentioned in Clause 1 and Clause 2 of this Article:

a) A declaration of grant aid of a finance authority as prescribed by the Ministry of Finance (if grant aid is goods that are not subject to import tax, special excise tax, and VAT): submit 01 original copy.

If the investor or main contractor of an ODA project with a grant element exports, imports goods that are not subject to export tax, import tax, VAT, special excise tax as prescribed by regulations of law on taxation, it is required to have the goods supply contract which specifies the successful bids or prices for goods supply exclusive of import tax, VAT, and special excise tax (if the successful bidder is an importer); or the import entrustment contract which specifies the prices for goods supply exclusive of import tax, VAT, special excise tax (in case of import entrustment): submit 01 photocopy;

b) The sale contract or goods supply contract which specifies the successful bids or prices for goods supply exclusive of import tax, special excise tax, VAT on goods that are not subject to import tax, special excise tax, and VAT (if any): submit 01 photocopy and present the original upon the first import at the Sub-department of Customs where import procedures are followed for the purpose of comparison;

c) The contract to sell goods to export-processing enterprises (EPEs) according to the bidding result or the goods supply contract which specifies the successful bids or prices for goods supply exclusive of import tax, special excise tax, VAT on goods that are not subject to import tax, special excise tax, and VAT (if any) imported by contractors to serve the construction of workshops and office buildings of the EPEs;

d) With regard to goods not subject to VAT being machinery, equipment, supplies that cannot be manufactured in Vietnam and need to be imported to serve scientific research, technological development; machinery, equipment, spare parts, specialized means of transport, and supplies that cannot be manufactured in Vietnam and need to be imported to serve petroleum exploration and development; airplanes, oil rigs, vessels that cannot be manufactured in Vietnam and need to be imported as fixed assets of enterprises or leased from foreign parties to used for manufacturing, trading, or for lease, the following documents must be provided:

d.1) The contract to sell goods to enterprises according to the bidding result or the goods supply contract or service contract (specifying that the amount payable are exclusive of VAT) if goods not subject to VAT are imported by the successful bidder, selected contractor (through direct contracting) or service provider: submit 01 photocopy, present the original upon the first import at the Sub-department of Customs where import procedures are followed for the purpose of comparison;

d.2) The import entrustment contract which specifies that the prices under the entrustment contract are exclusive of VAT (in case of import entrustment): submit 01 photocopy;

d.3) Documents issued by competent authorities to assign various organizations to execute programs, projects, scientific researches, technological development, or science and technology contracts: submit 01 original copy.

d.4) Contracts with foreign parties for lease of airplanes, oil rigs, vessels that cannot be manufactured in Vietnam and are used for manufacturing, trading, or for lease: submit 01 photocopy.

dd) The certification that goods are imported to directly serve national defense by the Ministry of National Defense or security purposes by the Ministry of Public Security (if goods are weapons and equipment directly serving national defense and security and not subject to VAT): submit 01 original copy.

5. In order to apply 5% tax to equipment and instruments serving teaching, research, and scientific experiments, the declarant must submit the contract to sell goods to schools, research institutes, or the goods supply contract or service contract: submit 01 photocopy, present the original upon the first import at the Sub-department of Customs where import procedures are followed for comparison purpose.

Article 17. Checking, sampling goods prior to customs declaration

Goods shall be checked before customs declaration in accordance with Point c Clause 1 Article 18 of the Law on Customs; goods shall be sampled before customs declaration as follows:

1. After the goods carrier or keeper (shipping company, airline, railroad company, express mail company, provider of postal services, bonded warehouse owner, etc.) accepts, the goods owners shall notify the Customs Department where goods is kept and the port/warehouse/depot operator to work in cooperation.

2. Before checking goods, the Sub-department of Customs shall make a certification confirmed by the goods owner. The certification shall be made into 02 copies, each of which is kept by a party.

3. Where the declarant wishes to take samples to serve customs declaration, Article 31 of this Circular shall apply.

4. After checking goods and taking samples, the customs official shall seal the shipment. If goods cannot be sealed, the certification mentioned in Clause 2 of this Article must reflect the condition of goods and specify the goods keeper is responsible for preserving the status quo of goods. When making customs declaration, the goods owner must write the result of checking and sampling on the customs declaration.

Article 18. Customs declaration

1. Customs declaration principles

- a) The declarant must provide sufficient information on the customs declaration as instructed in Appendix II enclosed herewith. In case of paper-based customs declaration, instructions in Appendix IV enclosed herewith shall be followed;
- b) Goods that are exported, imported in different manner shall be enumerated on separate declarations;
- c) A customs declaration shall be used for a shipment with one invoice. When declaring a shipment with multiple invoices on the same customs declaration as prescribed in Clause 7 Article 25 of Decree No. 08/2015/NĐ-CP, the declarant must make a list of commercial invoices for exported or imported goods using form 02/BKHD/GSQL in Appendix V enclosed herewith and send it together with the customs declaration to the System.

In case of paper-based customs declaration, the declarant must specify the numbers, dates of invoices, and total quantity of goods on the customs declaration. If all invoices cannot be declared on the customs declaration, a list shall be compiled and enclosed with the declaration.

- d) When declaring exported or imported goods that are eligible for tax exemption or not subject to tax, information about the tax exemption must be declared as instructed in Appendix II enclosed herewith.

dd) If exported or imported goods are eligible for tax reduction, the tax rate before reduction, and the rate of reduction, and the document of such reduction must be specified on the paper customs declaration;

- e) If exported or imported goods are sea, river, air, railroad vehicles, the declaration and export procedures must be completed before initiate exit procedures unless goods are sold after the vehicle has exited; declaration and import procedures must be completed before initiate entry procedures. If the imported goods are road vehicles or other kinds of vehicles are transported by another vehicle through the checkpoint, it is only required to make declaration and export/import follows procedures, not entry/exit procedures;

- g) The declarant may use the analysis results given by competent organizations to declare information related to the names, codes, quality, categories, quantity of goods, and other information about the shipment.

The declarant may use the result of analysis and classification of a shipment granted clearance previously to declare the names, codes of next shipments that have the same names of goods, composition, physical and chemical properties, functions, and are imported from the same manufacturers within 03 years from the day on which the result of analysis and classification is given, Unless the regulations of law which is the basis for giving the analysis, classification of exported or imported goods is amended or replaced.

- h) In case of paper-based customs declaration of temporary import/export of goods, re-exported/re-imported goods must also be declared on a paper declaration.

2. A customs declaration consists of up to 50 lines of goods. More than one customs declaration shall be used if more lines are needed. If a shipment consists of multiple types of goods serving manufacturing, inward processing, or manufacturing of goods for export, the declarant may group the goods with the same codes (Appendix II hereof), origins, or tax rates.

When grouping HS codes on the customs declaration, the invoice value, dutiable values, quantity of lines of grouped HS codes is the total invoice value, dutiable values, and quantity of group lines; do not declare invoices of lines of grouped HS codes

3. If the amount of tax on a type of goods exceeds the number of digits on the declaration, the declarant may divide the goods into more lines on the customs declaration. If it is not possible to do so, the paper customs declaration shall be used.

If the total amount of tax on a type of goods exceeds the number of digits of on the declaration, the declarant may use more than one customs declaration.

4. If a shipment must be declared on multiple declarations or imported goods serve multiple purposes, have the same bill of lading and invoice, declared on multiple invoices by purpose at the same Sub-department of Customs, the declarant shall only submit 01 customs dossier (if paper documents are submitted) and write “chung chứng từ với tờ khai số ... ngày ...” (“in the same set with declaration No. Dated”) on the next declarations.

In the cases mentioned in Clause 2, Clause 3, and Clause 4 of this Article, the declarant shall submit, present, keep one customs dossier that contains customs declarations of the same shipment.

5. The declarant shall round up the number if the quantity of goods has more than two digits after the decimal points, the invoice value has more than 04 digits after the decimal points, or invoice unit price has more than 06 digits after the decimal points. The practical quantity, value of invoices and cost prices of invoices shall be declared at item “Mô tả hàng hóa” (“Goods description”).

6. Provision of advance information about exported/imported goods:

a) The declarant must provide advance information about exported or imported goods according to Point 2 Appendix II enclosed herewith;

b) Advance information is effective and kept on the System for up to 07 days from the time of registration or last adjustment;

c) If advance information is accepted, the System will provide the customs declaration number. If not, the System will provide explanation and necessary adjustment/addition;

d) The declarant may adjust, supplement information declared on the System.

7. After declaring advance information about exported or imported goods, the declarant shall use the information given by the System to make the official customs declaration.

If the System notifies that the declarant is not eligible to register the customs declaration, the declarant shall contact the Sub-department of Customs where the declaration is registered and send documents proving the normal operation of the declarant's enterprise, which are issued by a competent authority.

The declarant shall check information given by the System and take legal responsibility for the use of such information to follow customs procedures.

8. Deadline for submitting the customs declaration

a) The customs declaration of exported or imported goods shall be submitted after goods have been gathered at the location informed by the declarant and at least 04 hours before the departure of the means of transport. With regard to exported goods sent by express mail, the declaration must be submitted at least 02 hours before the departure of the means of transport;

b) With regard to imported goods, the customs declaration must be submitted before goods arrive at the checkpoint or within 30 days from the day on which goods arrive at the checkpoint.

If the inbound means of transport follow electronic customs procedures, the date of arrival of goods at the checkpoint is the date of arrival of the means of transport at the checkpoint as informed by the shipping company on the System.

In case the means of transport follow manual customs procedures for entry, the date of arrival of goods at the checkpoint is the day on which the customs authority appends the seal on the declaration of imported goods at the port of discharge which is enclosed with documents about the means of transport (by sea, by air, or by rail) or the date written on the declaration of means of transport crossing the checkpoint or the logbook of means of transport (by river or by road)

Article 19. Registration of customs declarations

1. Location of customs declaration registration

a) The customs declaration of exported goods shall be registered at the Sub-department of Customs in the same administrative division as the headquarter or manufacturing facility of the enterprise, or the Sub-department of Customs in the same administrative division with the place where exported goods are gathered, or the Sub-department of Customs of the checkpoint of export;

b) The declaration of imported goods shall be registered at the Sub-department of Customs at the checkpoint in charge of the goods storage place or port of destination written on the bill of lading, transport contract, or the Sub-department of Customs outside the checkpoint area in the same administrative division as the enterprise's headquarter or the place to which goods is delivered;

c) Declarations of exported or imported goods for certain purposes shall be registered at corresponding locations specified in Decree No. 08/2015/NĐ-CP and this Circular.

2. Checking conditions for customs declaration registration.

Information on the customs declaration shall be automatically checked by the System to make sure conditions for customs declaration registration are satisfied. Conditions include:

a) Conditions for implementation of enforcement measures and deadline for paying tax, except for the following cases:

a.1) Exported goods are eligible for tax exemption or not subject to tax or eligible for 0% tax;

a.2) Goods are certified serving national defense and security by the Ministry of Public Security and the Ministry of National Defense, eligible for conditional exemption of import tax and not subject to VAT;

a.3) Goods certified serving disaster control, prevention of epidemics, emergency assistance by relevant Ministries and competent authorities; humanitarian aid, grant aid.

b) The cases mentioned in Clause 1 Article 14 of this Circular;

c) Adequacy and conformity of information on the customs declaration;

d) Information about policies on goods management and taxation applied to exported or imported goods on the customs declaration.

In case of paper-based customs declaration, the customs official shall check the conditions for registration of customs declaration prescribed in this Clause and documents enclosed with the customs dossier.

3. According to the decision on customs inspection which is automatically notified by the System, the customs official shall:

a) Accept information on the customs declaration and decision on customs clearance; follow customs clearance procedures prescribed in Article 34 of this Circular;

b) Examine relevant documents enclosed with the customs dossier submitted or presented by the declarant, or relevant documents on the National Single-window Information Portal to decide whether to grant customs clearance of goods; or carry out physical inspection of goods to decide whether to grant customs clearance.

The Director of the General Department of Customs shall provide specific instructions on classifying customs declarations and use of classification result during customs inspection.

4. In case of paper-based customs declaration, the declarant shall submit or present the customs dossier when registering the customs declaration.

Article 20. Additional declaration of customs dossier

1. Cases of additional declaration:

a) The declarant may make additional declaration of the customs dossier after the System classifies the declaration, as long as it is done before the customs authority directly examine the customs dossier;

b) If the declarant or taxpayer finds errors in customs declaration before the customs authority decides to carry out a post-clearance inspection, additional declaration of the customs dossier may be made within 60 days from the customs clearance date;

c) If the declarant or taxpayer finds errors in customs declaration after the customs authority examines the customs dossier or carries out physical inspection of goods but before customs clearance, such declarant or taxpayer shall make additional declaration and shall be dealt with in accordance with regulations of law on taxation and actions against administrative violations;

d) If the declarant or taxpayer finds errors in customs declaration after 60 days from the customs clearance date or after the customs authority carries out a post-clearance inspection, such declarant or taxpayer shall make additional declaration and shall be dealt with in accordance with regulations of law on taxation and actions against administrative violations;

dd) The declarant shall make additional declaration at the request of the customs authority when during examination of the customs dossier or physical inspection of goods, and shall be dealt with in accordance with regulations of law on taxation and actions against administrative violations.

Additional declaration prescribed in Point b and Point d of this Clause shall only be made if exported and imported goods are not on the List of exported and imported goods under the management of a line management agency, List of exported and imported goods under licenses, List of goods banned from export and/or import, List of goods banned from export and/or import.

2. Contents of additional declaration:

a) Additional declaration of information on electronic customs declarations, except for the information that must not be adjusted mentioned in Point 3 of Appendix II enclosed herewith. With regard to the information of which additional declaration is not supported by the System, additional declaration shall be made in accordance with Point 4 Appendix II enclosed herewith;

b) In case of paper-based customs declaration, the declarant may make additional declaration of information on the customs declaration, except for the information that must not be adjusted mentioned in Point 3 of Appendix II enclosed herewith.

3. Procedures for making additional declaration of the customs dossier

a) Responsibilities of the declarant:

a.1) In case of additional declaration of the customs declaration prescribed in Point a and Point dd Clause 1 of this Article, the declarant shall declare additional information on the System and submit relevant documents via the System or directly in paper (01 photocopy).

With regard to information of which additional declaration is not supported by the System as prescribed in Point 4 of Appendix II enclosed herewith, the declarant shall submit 02 original copies of the request for additional declaration (form No. 03/KBS/GSQL in Appendix V enclosed herewith) and 01 photocopy of documents about the additional declaration.

During inspection of documents or physical inspection of goods, if the customs authority finds that contents of the customs declaration and customs dossier are not consistent, the declarant must make an additional declaration within 05 days from the day on which the customs authority's request is received and incur administrative penalties as prescribed by law;

a.2) In the cases of additional declaration of the customs dossier mentioned in Point b. Point c, and Point d Clause 1 of this Article:

a.2.1) With regard to information of which additional declaration after customs clearance is supported by the System as prescribed in Point 5 of Appendix II enclosed herewith, the declarant shall make additional declaration on the System and submit relevant documents via the System or directly in paper (01 photocopy);

a.2.2) With regard to other information, the declarant shall submit the request for additional declaration (form No. 03/KBS/GSQL in Appendix V enclosed herewith) and 01 photocopy of documents about the additional declaration.

a.3) If goods are not granted customs clearance because of change of the port of loading, checkpoint of export, or means of transport, the declarant shall make additional declaration as instructed in this Article. If the change of the port or loading, checkpoint of export, or means of transport leads to changes of the transport modal, the customs declaration must be cancelled as prescribed in Article 22 of this Circular;

a.4) With regard to exported goods that are granted customs clearance and brought into the customs controlled area at the checkpoint, if the port of loading, checkpoint of export, or means of transport is changed, the declarant shall submit a written notice of such change (by fax, email, etc.) to the customs authority at the checkpoint where goods are gathered to serve supervision of goods loaded onto the means of transport. If goods are exported through other locations permitted by a competent authority as prescribed by law, a written notice of the change of the checkpoint of export shall be submitted to the customs authority. Within 03 days after goods are brought into the customs controlled area, the declarant shall make and send a written request for adjustment (form No 03/KBS/GSQL in Appendix V enclosed herewith) to the Sub-department of Customs where the declaration is registered in order to update the change on the System.

With regard to exported goods that are granted customs clearance but are yet to be brought into the customs controlled area at the checkpoint, if the port of loading/checkpoint of export is changed within the same province, the declarant shall submit a written notice of such change to the customs authority at the checkpoint of export serve supervision of goods. Within 03 days from the day on which goods are brought into the customs controlled area, the declarant shall make and send a written request for adjustment to the Sub-department of Customs where the declaration is registered in order to update the change on the System.

With regard to exported goods that are granted customs clearance but are yet to be brought into the customs controlled area at the checkpoint, if the change of the port of loading/checkpoint of export leads to the change of the Customs Department in charge of the port of loading/checkpoint of export, the declarant shall submit a written notice of the change of the port of loading/checkpoint of export to the customs authority where the declaration is registered in order to change the customs controlled area and update the change on the System;

a.5) If container numbers are not available or container numbers are changed when following customs procedures for exporting goods, the declarant shall submit a list of container numbers (form No. 31/BKCT/GSQL in Appendix V enclosed herewith) to the customs official in charge at the checkpoint of export. The customs official shall check and update the container numbers on the System in order to print the list of containers.

With regard to imported goods passing through customs controlled area, if the container numbers are not consistent with the numbers on the customs declaration, the declarant shall present the delivery note the customs authority at the checkpoint of import. The customs official shall check and update the container numbers on the System in order to print the list of containers.

The declarant shall make additional declaration within 03 days from the day on which goods are brought into the customs controlled area;

a.6) In case of paper-based customs declaration, the declarant shall make a written request for additional declaration (form No. 03/KBS/GSQL in Appendix V enclosed herewith): submit 02 originals and documents proving the additional declaration.

b) Responsibilities of the customs authority:

b.1) Receive additional declarations;

b.2) Inspect the adequacy and accuracy of the additional declaration, notify the declarant of the inspection result;

b.3) Retain documents submitted by the declarant;

b.4) Issue decisions on imposition of tax and penalties for administrative violations (if any) as prescribed by law;

b.5) Notify result of inspection of additional declaration by the following deadline:

b.5.1) 02 working hours from the receipt of sufficient information or documents (if any) in the case mentioned in Point a and Point b Clause 1 of this Article;

b.5.2) 08 working hours from the receipt of sufficient information or documents (if any) in the case mentioned in Point c and Point d Clause 1 of this Article.

b.6) Update additionally declared information on the System if the customs authority accepts the additional declaration of the information of which additional declaration is not supported by the System;

b.7) If the declarant fails to comply with the customs authority's request for additional declaration given during inspection of documents or physical inspection of goods within 05 days from the receipt of such request, the customs authority shall:

b.7.1) Issue a decision on imposition of tax and penalties for administrative violations against regulations on customs if the additional declaration affects the amount of tax payable and there is sufficient basis to determine that the declaration made by the declarant is not conformable (except for the case in Point b.7.2 of this Clause);

b.7.2) Grant customs clearance as declared and carry out an inspection afterwards as prescribed if there is sufficient basis for rejecting the declared value prescribed in Point a Clause 2 Article 25 of this Circular;

b.7.3) Return documents to the declarant and provide explanation in writing if the amount of tax payable is not affected.

b.8) In case of paper-based customs declaration, apart from the tasks mentioned in Point b of this Clause, the customs official must specify the time and date of receipt of the additional declaration; check the adequacy and accuracy of the additional declaration, specify the inspection result on the additional declaration, and give 01 copy of the additional declaration to the declarant.

Article 21. Declaration of repurposed goods or goods sold domestically instead of being re-exported

1. Principles:

a) Exported or imported goods that are sold domestically instead of being re-exported or repurposed must comply with Clause 5 Article 25 of Decree No. 08/2015/NĐ-CP;

b) Goods that have undergone export/import procedures may only be repurposed or sold domestically instead of being re-exported after the declarant completes customs procedures of the customs declaration;

c) If license for export/import is required during export/import procedures, the domestic sale or repurposing of goods must be approved in writing by the license issuer;

d) The taxpayer must fully declare, pay taxes and fines (if any) when goods are sold domestically or repurposed.

2. Responsibilities of the declarant:

a) Submit a customs dossier that consists of:

a.1) The customs declaration prescribed in Article 16 of this Circular;

a.2) A license to repurpose or export/import goods issued by a Ministry or regulatory body (if such license is required): 01 original copy;

a.3) A written agreement with the foreign party to repurpose goods or commercial invoices in case of transfer of ownership of processed goods, leased goods, lent goods of a foreign entity, or contract to sell tax-free goods, goods not subject to tax, goods temporarily imported or temporarily exported: 01 photocopy.

b) Fully declare and pay tax according to the new customs declaration, write the old customs declaration number, the new purpose or domestic sale of goods instead of re-export in “Notes” section of the electronic customs declaration or paper customs declaration.

If goods are re-exported or transferred to an entity that is exempt from tax or not subject to tax, the taxpayer must declare as prescribed and shall not pay tax.

If the customs authority or another competent authority finds that goods are repurposed or sold domestically repurposed but the taxpayer fails to voluntarily declare and pay tax, the taxpayer shall incur tax according to the initial customs declaration of imported goods and incur penalties according to applicable regulations. The taxpayer is responsible for fully paying tax arrears, late payment interest, and fines (if any) according to the customs authority’s decision.

3. Responsibilities of the customs authority:

Carry out appropriate customs procedures and adjust tax on the old customs declaration to the quantity of goods being repurposed or sold domestically instead of being re-exported according to the new customs declaration as follows:

a) If taxpayer has not paid tax on the old customs declaration: after tax on the new declaration is paid, the customs authority shall issue a Decision to reduce tax on the old declaration;

b) If taxpayer has paid tax on the old customs declaration: the customs authority shall issue a Decision to reduce tax on the old declaration, refund and offset tax on the old customs declaration and that on the new declaration is paid (as if overpaid tax). If tax on the old customs declaration is lower than that on the new customs declaration, the taxpayer shall pay the arrears before completing the procedures for selling goods domestically instead of being re-exported. If tax on the old declaration is higher than that on the new declaration, the overpaid amount shall be

refunded by the customs authority as prescribed. The procedures for offsetting or refund shall comply with Article 132 of this Circular.

The Decision to adjust tax shall be made using the form No. 03/QĐĐC/TXNK in Appendix VI enclosed herewith.

The time limits for refunding and offsetting tax between the old customs declaration and the new customs declaration shall comply with Clause 3 Article 49 of this Circular. While the customs authority is processing tax refund and offsetting, late payment interest shall not be charged.

Article 22. Cancellation of customs declaration

1. Cases in which the customs declaration is cancelled:

- a) Exported goods are not brought into the customs controlled area at the checkpoint of export or imported goods do not arrive at the checkpoint of import within 15 days from the day on which the declaration is registered and goods are exempt from physical inspection;
- b) The declarant fails to present the customs dossier within 15 days from the day on which the declaration is registered (if the customs dossier is required);
- c) The declarant fails to present the exported or imported goods to be undergo physical inspection to the customs authority within 15 days from the day on which the declaration is registered (if the customs dossier is required);
- d) cases in which the customs declaration is cancelled at the request of the declarant:
 - d.1) The customs declaration has been registered but customs clearance is not granted because of an error of the System;
 - d.2) There are multiple declarations for the same shipment of exported or imported goods (declaration information is repeated);
 - d.3) Goods on the declaration of exported goods have been brought into the customs controlled area but are not actually exported;
 - d.4) The declaration of imported goods has been registered but in fact, goods are not imported or goods have not passed through the customs controlled area;
 - d.5) Information that is not permitted to be changed is incorrectly provided as prescribed in Point 3 of Appendix II enclosed herewith.

2. Procedures for canceling a declaration

- a) Responsibilities of the declarant:

The declarant that wishes to cancel the declaration shall make and send a written request for cancellation (form No.04/HTK/GSQL in Appendix V enclosed herewith) to the Sub-department of Customs where the declaration is registered and submit documents proving that goods are actually not exported or imported in the cases mentioned in Point d.3 and Point d.4 Clause 1 of this Article.

With regard to exported goods that have been brought into the customs controlled area but in fact are not exported, if the taxpayer wishes to cancel the declaration and bring the goods back into the domestic market, the declarant must make a commitment that tax on the declared shipment is not refunded or cancelled at any domestic tax authority or customs authority, and take responsibility for the declared information. If the customs authority or tax authority finds tax has been refunded, the declarant shall be dealt with as prescribed by law;

b) Responsibilities of the customs authority:

b.1) For electronic customs declaration:

b.1.1) Within 08 working hours from the receipt of the request for cancellation from the declarant, the customs official shall verify the reasons, conditions, and information on the request on the System, request the Director of the Sub-department of Customs to consider approving the cancellation, and cancel the declaration on the System, settle tax payable on the canceled declaration, and make an update on the risk management system to evaluate the enterprise's conformity with law;

b.1.2) Within 10 days from the expiration date of the customs declaration mentioned in Point a Clause 1 of this Article. If the declarant does not submit a written request for cancellation of the declaration, the customs authority shall carry out an inspection. If imported goods do not arrive at the checkpoint of import or exported goods are not brought into the customs controlled area at the checkpoint of export, the declaration shall be cancelled on the System.

b.1.3) In case of cancellation of the declaration mentioned in Point b or Point c Clause 1 of this Article, the customs authority shall check and cancel the declaration on the System;

b.1.4) If the cancellation of the customs declaration of temporarily imported/export goods affect information for management of quantity of goods temporarily imported/export on the system, the customs authority must update information about goods quantity on the system after the customs declaration is cancelled;

b.1.5) The cancellation shall be notified to the Provincial Department of Taxation if the exported goods are domestic goods, or the Sub-department of Customs if exported goods were imported previously (if the Sub-department of Customs where the declaration of exported goods is registered is different from the Sub-department of Customs where the declaration of imported goods is registered) to ensure that tax on the cancelled declaration is not refunded or cancelled.

b.2) In case of paper-based customs declaration:

b.2.1) The cancelled declaration shall be crossed out with a pen and bear the official's signature and seal;

b.2.2) Cancelled customs declarations shall be retained and sorted by registration number.

3. The Directors of Sub-departments of Customs where the declarations are registered shall consider the cancellation of customs declarations registered by customs authorities

Section 3. Detailed inspection of customs dossier, physical inspection of goods; transport of goods to storage, release of goods, customs clearance of goods

Article 23. Inspection principles

1. According to the result of classification of customs declarations on the System, the decision of the Director of the Sub-department of Customs where the declaration is registered or the Sub-department of Customs where physical inspection of goods is carried out, information about customs declaration, risk management information on the System, the customs official shall notify the declarant via the System of the submission or presentation of one or all documents enclosed with the customs dossier, and carry out detailed inspection of the customs dossier and physical inspection of goods. In case of physical inspection of goods, the customs official must write the inspection result on the result note, update on the System in accordance with this Circular and instructions of the General Department of Customs, decide customs clearance, release, or storage of goods.

2. During the inspection, if customs offenses or tax offenses are suspected, the customs official shall request the Director of Sub-department of Customs to change the form or level of inspection.

3. During the inspection, if analysis by a professional agency is necessary for the inspection, the analysis cost shall be incurred by the customs authority.

Article 24. Checking goods names, codes, and tax rates

1. Checking goods names, codes, and tax rates upon inspection of the customs dossier.

a) Inspection contents:

Compare the declared information and accuracy of goods names, codes, and tax rates on the customs declaration with information on documents in the customs dossier;

b) Handling inspection result:

b.1) If the goods names, codes, and tax rates are clearly and fully declared by the declarant, the goods names are consistent with other information on documents in the customs dossier, the customs authority shall accept the goods names, codes, and tax rates declared by the declarant;

b.2) If there are ample evidence that goods names, codes, and tax rates are not correctly declared, the declarant shall be instructed and requested to make additional declaration as prescribed in Article 20 of this Circular and incur penalties as prescribed by law. If the declarant fails to make additional declaration, the customs authority shall re-determine the codes of goods, tax rates, impose tax and penalties, update the inspection results on the database, and grant customs clearance after the declarant has fully paid tax and fines (if any) as prescribed;

b.3) If declared information about goods names, goods descriptions are not consistent with that on documents enclosed with the customs dossier and information on the customs declaration but the basis for determining the goods names, codes, and tax rates is not sufficient, the declarant shall be requested to submit additional technical documents of sale contract or composition analysis sheet.

By examining additional documents, if the customs authority has sufficient basis for determining that the goods names, codes, tax rates are incorrectly declared, the declarant shall be instructed to make additional declaration as prescribed in Point b.2 of this Clause. If the declarant fails to submit additional documents at the request of the customs authority of the customs authority does not have sufficient basis for determining the goods names, codes, tax rates by examining the documents, samples shall be taken and analyzed in accordance with regulations of the Minister of Finance on classification of goods, analysis serving classification of goods, quality inspection, food safety inspection of exported or imported goods, or request the Director of the Sub-department of Customs to decide physical inspection of goods according to Clause 2 of this Article.

2. Checking goods names, codes, and tax rates upon physical inspection of goods

a) Inspection contents:

Compare the declared information and accuracy of goods names, codes, and tax rates on the customs declaration with actual goods.

During the physical inspection of goods, the customs official must determine names and codes of goods according to the Vietnam's List of exported or imported goods and corresponding tax schedules;

b) Handling inspection result:

b.1) If the names and codes of goods on the customs declaration are consistent with actual goods, the tax rates are conformable with applicable tax schedules at the time of inspection, the customs authority shall accept the goods names, codes, and tax rates declared by the declarant;

b.2) If there are ample evidence that goods names, codes, and tax rates are not correctly declared, the declarant shall be instructed and requested to make additional declaration as prescribed in Article 20 of this Circular and incur penalties as prescribed by law. If the declarant fails to make additional declaration, the customs authority shall re-determine the codes of goods, tax rates,

impose tax and penalties, update the inspection results on the database, and grant customs clearance after the declarant has fully paid tax and fines (if any) as prescribed;

b.3) If names and codes of goods cannot be accurately determined according to the Vietnam's List of exported or imported goods and corresponding tax schedules, the Sub-department of Customs and the declarant shall take samples for analysis in accordance with regulations of the Minister of Finance on classification of goods, analysis serving classification of goods, quality inspection, food safety inspection of exported or imported goods.

3. If the shipment has been granted customs clearance on the basis of the analysis result, the customs authority may use such analysis result to carry out customs procedures for next shipments of the same declarant that have goods with the names, origins, codes, and imported from the same manufacturer (for imported goods).

Article 25. Inspection of customs value

1. The customs authority shall inspect the customs value declared by the declarant on the customs declaration (hereinafter referred to as "declared value") to identify the cases in which the declared value is rejected or suspicious:

a) The declared value of exported or imported goods shall be rejected in one of the following cases:

a.1) The declarant fails to make declaration or declares incorrectly, insufficiently information related to customs value on the declaration of exported goods, imported goods, or the declaration of value (if any);

a.2) Information such as value, delivery terms on the commercial invoice are not consistent with that on the bill of lading (if any) or equivalent transport documents as prescribed by law.

b) The declared value of exported or imported goods is suspicious but there is not sufficient basis for rejecting it, which means the declared value is smaller than that according to pricing database of the General Department of Customs.

2. Handling inspection result:

a) If there is sufficient basis for rejecting the declared value, the customs authority shall notify the declarant of the basis for rejection and:

a.1) request the declarant to make additional declaration within 05 days from the notification date, impose administrative penalties, and grant customs clearance of goods as prescribed if the declarant agrees with the basis for rejecting the declared value.

Additional declaration shall be made in accordance with Clause 3 Article 20 of this Circular;

a.2) grant customs clearance according to the declared value and use the basis for rejecting the declared value for post-clearance inspection if the declarant does not agree with the basis for rejection or fails to make additional declaration within 05 days from the notification date.

b) If the declared value is suspicious but there is no sufficient basis for rejecting it, the customs authority shall notify declarant of the suspicious case via the System or use the form No. 02A/TBNVTG/TXNK in Appendix VI enclosed herewith (In case of paper-based customs declaration), request the declarant to provide additional documents related to the method for determination of the declared value as prescribed in the Circular of the Minister of Finance on customs values of exported or imported goods (01 photocopy):

b.1) Within 05 days from the notification date, the declarant shall submit additional documents and request consultation (with specific time), the customs authority shall release goods as prescribed in Article 33 of this Circular and hold the consultation as prescribed in Clause 3 of this Article;

b.5) If the declarant fails to submit additional documents or does not request a consultation within 05 days from the notification date, the customs authority shall grant customs clearance according to the declared value and use the suspicions for post-clearance inspection as prescribed.

3. Consultation

a) The power to hold the consultation:

a.1) The Director of the provincial Department of Customs shall hold the consultation and take responsibility for the effectiveness of the consultation;

a.2) The Director of the provincial Department of Customs may delegate the Director of a Sub-department of Customs to carry out the consultation if appropriate.

b) One-time consultation:

b.1) The declarant may request one consultation if the following conditions are satisfied:

b.1.1) The goods are exported under the same sale contract and divided into multiple shipments;

b.1.2) Information serving inspection and determination of customs value is not changed;

b.1.3) The declarant makes a written request for one-time consultation, committing to use the consultation result for the next export or import.

b.2) The consultation result may be used for the next export or import if the customs value is still consistent with the information serving inspection and determination of customs value after the consultation.

c) Responsibilities:

c.1) The customs authority shall:

c.1.1) Hold the consultation at the request of the declarant, check the documents submitted by the declarant to clarify the suspicions;

c.1.2) Make a consultation record which specifies the full discussion during the consultation; additional documents submitted by the declarant; whether or not the declarant agrees with the basis for rejection in case the customs authority has sufficient basis for rejecting the declared value; and the verdict of the consultation: "Basis for rejecting declared value not sufficient" "Basis for rejecting declared value sufficient" (specifying the basis) or "Basis for rejecting declared value sufficient but denied by declarant".

c.2) The declarant shall submit relevant documents related to the method for determination of the declared value according to regulations of the Ministry of Finance on customs values of exported or imported goods; appoint a representative to decide the issues related to determination of taxable values or participate in the entire consultation at appropriate time.

c.3) The consultation record must be signed by all parties.

d) Method of consultation: direct consultation;

dd) Maximum duration of the consultation: 30 days from the registration date of the declaration;

e) Time limit for carrying out the consultation: 05 working days;

b) Processing consultation result:

According to the consultation record and additional documents submitted by the declarant, the customs authority shall:

g.1) Request the declarant to make additional declaration as prescribed in Article 20 of this Circular within 05 days from the end of the consultation if the declarant agrees with the basis for rejecting the declared value in one of the following cases (Nevertheless, additional declaration must be made within 03 days from the day on which the declaration is registered):

g.1.1) One of the cases mentioned in Point a Clause 1 of this Article;

g.1.2) The declarant incorrectly applies the procedures, conditions, and methods for customs valuation.

g.2) Grant customs clearance according to the declared value and use the basis for rejecting the declared value for post-clearance inspection in the following cases:

g.2.1) The declarant fails to make additional declaration as prescribed in Point g.1 of this Clause within 03 days from the end of the consultation or within 30 days from the day on which the declaration is registered;

g.2.2) The declarant does not agree with the basis for rejecting the declared value.

g.3) Grant customs clearance according to the declared value if the basis for rejecting the declared value is not sufficient.

Article 26. Inspection, determination of origins of exported or imported goods

1. With regard to goods

Origins of exported goods shall be determined according to the declaration made by the declarant, documents enclosed with the customs dossier, and actual goods.

If there is a suspicion that the origins of exported goods are fraudulent or there is a warning of illegal transport, the Sub-department of Customs where the declaration is registered shall request the declarant to provide documents proving the origins of exported goods; if the declarant fails to do so, an inspection at the facility where goods are manufactured for export shall be carried out (hereinafter referred to as “on-site inspection”). Exported goods shall be granted customs clearance pending the inspection result.

2. With regard to imported goods

a) The declarant shall submit documents certifying origins of imported goods to the customs authority as prescribed in Point g Clause 2 Article 16 of this Circular when submitting the customs dossier or by the deadlines prescribed in international agreements to which Vietnam is a signatory.

If such documents are not submitted upon customs declaration, the declarant shall declare the preferential rates of import tax applied to Most Favored Nation (hereinafter referred to as “MFN rates”) or ordinary rates. If additional documents proving goods origins are submitted by the deadline, the declarant shall make additional declaration at corresponding preferential rates, and have the overpaid tax refunded; if the shipment is eligible for exemption of document inspection upon customs declaration, the declarant shall submit the customs dossier as prescribed in Clause 2 Article 16 when submitting additional documents proving goods origin.

b) The customs authority check goods origins according to documents proving goods origins, the customs dossier, the actual goods, information related the goods, Article 15 of the Government's Decree No. 19/2006/NĐ-CP dated February 20, 2006, the Circular on guidelines for preferential and non-preferential rules of origins of the Ministry of Industry and Trade, and their guiding documents;

c) The customs authority shall accept the documents certifying goods origins if there are minor differences that do not affect their legitimacy and the origins of imported goods, including:

- c.1) Grammatical errors or typos;
- c.2) Difference in the symbols on the C/O: printed or hand-written, “x” and “√”, mistaken symbols;
- c.3) Minor difference between the signature on the C/O and the model signature;
- c.4) Difference in measurement units on the C/O and other documents (invoice, bill of lading, etc.);
- c.5) Difference in paper size of the C/O submitted and the model C/O;
- c.6) Difference in ink color (black or blue) of information on the C/O;
- c.7) Minor difference goods description on documents certifying goods origins and other documents;
- c.8) Difference between the codes on the C/O and those on the declaration of imported goods which does not change the goods origin.

If the declarant submit documents certifying goods origin of the whole shipment but only part of the shipment is imported, the customs authority shall accept such documents for the practical amount of imported goods;

d) If the quantity or weight of imported goods exceeds that written on the documents certifying goods origin, the excessive amount shall not be given incentives under the International Agreements to which Vietnam is a signatory;

e) The declarant must not change the C/O contents without permission, unless the changes are made by the C/O issuer as prescribed by law;

g) If information on documents certifying goods origin is not conformable with the customs dossier and regulations on inspection of origins of imported goods, or the signatures, seals on documents certifying goods origin are not consistent with the specimen signature or seal at the customs authority, the customs authority shall request the declarant to provide explanation and additional documents to prove the goods origins, except for the cases mentioned in Point c of this Clause. If the explanation and documents are appropriate, the documents certifying goods origin shall be accepted.

If there is sufficient basis for the customs authority to determine that the documents certifying goods origin are not conformable, MFN rates or ordinary rates shall apply instead of preferential rates.

While customs procedures are being followed, if the legitimacy of documents certifying goods origin is suspicious but the basis for rejection is not sufficient, the customs authority shall

calculate tax at MFN rates or ordinary rates and carry out verification as prescribed in Clause 3 of this Article.

During post-clearance inspection, if the legitimacy of documents certifying goods origin is suspicious but the basis for rejection is not sufficient, the customs authority shall carry out verification and decide whether to apply preferential rates according to the verification result.

3. Verification of origins of imported goods

a) The General Department of Customs shall verify origins of imported goods with the competent C/O issuer, the entities that certifies good origins themselves, or at the manufacturing facility of goods for export;

b) Time limit for verification

Verification must be done as soon as possible and within 150 days from submission of the customs dossier or from the beginning of the verification, unless otherwise prescribed by International Agreements to which Vietnam is a signatory.

If the competent C/O issuer of the exporting country responses regarding the verification result after the said deadline, the customs authority shall make a decision according to the verification result as prescribed in Point d of this Clause;

c) Verification procedures

The verification shall be carried out in accordance with regulations of the Minister of Industry and Trade on implementation of rules of origins in International Agreements to which Vietnam is a signatory:

c.1) The customs authority shall send a document (diplomatic note, email, fax, etc.) to the competent C/O issuer or the entity that certifies goods origins themselves;

c.2) If necessary, the customs authority shall carry out a verification of goods origins in the exporting country.

d) Processing verification result:

d.1) If the verification result is satisfactory and confirms the legitimacy of documents certifying goods origin:

d.1.1) within 15 working days from the day on which the verification result is received, the customs authority shall request the declarant to make additional Declaration at preferential rates of import tax. The additional declaration shall be made in accordance Article 20 of this Circular. No administrative penalties shall be imposed;

d.1.2) The customs authority shall refund the difference between the amount of tax that was temporarily paid at MFN rates or ordinary rates and tax paid at preferential rates to the importer.

d.2) If the verification result is not satisfactory or proves that the documents certifying goods origin are not legitimate, the customs authority shall apply MFN rates or ordinary rates and notify the declarant.

Article 27. Inspection of implementation of tax policies, inspection of application of notification of prior determination result

1. Inspect the conditions for implementation of enforcement measures or tax payment deadline as prescribed.

2. Inspect the basis for determining goods not subject to tax if the declarant declares that goods are not subject to export tax, import tax, VAT, special excise tax, or environmental protection tax.

3. Inspect the basis for determining goods eligible for conditional tax exemption or tax reduction if so declared.

4. Inspect the basis for determination of tax payable if exported or imported goods are subject to tax according to the inspection results as prescribed in Section 3 Chapter II of this Circular.

5. Compare information on the notification of prior determination result with documents and practical shipment of exported or imported goods if goods must undergo document inspection, physical inspection. If the exported or imported goods are not consistent with the notification of prior determination result, their codes, origins, and customs values shall be verified and the General Department of Customs shall be requested to annul the notification of prior determination result as prescribed in Clause 6 Article 24 of Decree No. 08/2015/NĐ-CP.

Article 28. Inspection of export license, import license, result of inspection by a specialized agency

1. The customs authority shall compare information about the export license, import license; inspection result or notice of exemption from inspection sent by a specialized agency or directly submitted to the customs authority by the declarant with information on the customs declaration and:

a) accept the declared information if it is conformable;

b) request the declarant to present the dossier for the customs authority to inspect if the declared information is not conformable.

If the inspection result or notice of exemption from inspection by a specialized agency is not available when the customs declaration is registered, the customs authority shall check and add information about the inspection results to the System or write the number of the notice on the

paper customs declaration within 02 working hours from the receipt of the inspection result, which is submitted by the declarant or the inspecting authority.

2. If a license is used for multiple times of export or import of goods, the Sub-department of Customs where the first declaration is registered shall make a monitoring sheet (form No. 05/TDTL/GSQL in Appendix V enclosed herewith), monitor and deduct the licensed quantity of goods after each export or import, and give it to the declarant to complete customs procedures for the next export or import. The Sub-department of Customs where the customs declaration is registered shall monitor the quantity of goods on the monitoring sheet and make a certification when the quantity of goods on the license is completed exported or imported.

Article 29. Physical inspection of goods

1. Imported goods shall be inspected while they are being unloaded from the means of transport to the warehouse, depot, port, or within the area of the checkpoint; exported goods shall be inspected after they are granted customs clearance and gathered within the area of the checkpoint of export:

a) Inspection of goods shall be carried out with scanners or other devices. If an inspection prescribed in Point c Clause 2 Article 34 of the Law on Customs must be carried out, the Sub-department of Customs at the checkpoint shall carry out the physical inspection with the presence of representatives of the regulatory body of the seaport, international airport, or the Border Guard;

b) Responsibilities of the Sub-department of Customs at the checkpoint:

b.1) Notify the carrier and the port/warehouse/depot operator of the list of shipments to be inspected;

b.2) Carry out inspections as prescribed in Point a of this Clause;

b.3) Pay the costs related to the inspection of goods.

c) Responsibilities of the carrier, port/warehouse/depot operator:

c.1) Complete necessary procedures in order to bring goods to the inspection location of the customs authority;

c.2) Facilitate the transport of goods to the inspection location as requested by the customs authority;

c.3) The port/warehouse/depot operator shall provide separate depot area or employ electronic port management system to determine the locations of goods that need to undergo physical inspection during customs procedures.

d) Handling of results of inspection of imported goods while they are being unloaded from the means of transport to the warehouse, depot, port, or checkpoint of import:

d.1) If no violations are found during the inspection, the unit assigned to inspect goods using scanners shall update the inspection result on the System.

The Sub-department of Customs where the customs declaration of imported goods is registered shall use the inspection result to complete customs procedures as prescribed;

d.2) If violations are found during the inspection, the unit assigned to inspect goods using scanners shall update the inspection result on the System; cooperate with the warehouse/depot port operator in arranging a separate storage for the shipment; cooperate with the Sub-department of Customs where the customs declaration is registered in carrying out physical inspection of goods while the declarant is following customs procedures.

dd) Handling results of inspection exported goods that are granted customs clearance and gathered within the checkpoint of export

dd.1) If no violations are found during the inspection, the Sub-department of Customs at the checkpoint shall update the inspection result on the System and monitor exported goods as prescribed;

dd.2) If violations are found, the Sub-department of Customs at the checkpoint shall cooperate with the warehouse/depot/port operator in arranging a separate storage for the shipment; update the inspection result on the System, request the declarant to open the shipment for physical inspection and take appropriate actions as prescribed.

Pursuant to regulations of law on customs, in consideration of requirements for management of each warehouse, depot, port, and checkpoint, availability of scanners and other devices, the Director of the General Department of Customs shall organize the inspection of imported goods while they are being unloaded from the means of transport to the warehouse, depot, port, and checkpoint of import, inspection of exported goods that are granted customs clearance and gathered within the checkpoint of export.

2. Physical inspection of exported or imported goods while following customs procedures at the Sub-department of Customs at the checkpoint:

a) With regard to shipments of imported goods required to undergo physical inspection and have undergone inspection as prescribed in Clause 1 of this Article, the customs official may use the scanning result to complete customs procedures.

If violations are found while scanning, the shipment shall be opened for physical inspection;

b) With regard to shipments of imported goods required to undergo physical inspection but have not undergone inspection as prescribed in Clause 1 of this Article:

b.1) If the Sub-department of Customs has a container scanner, it shall be used for physical inspection, unless the container scanner is not working, goods are not suitable for scanning, goods must be directly inspected by customs officials as instructed by the General Department of Customs, or the quantity of goods to be scanned exceeds the capacity of the scanner or the handling capacity of the port/warehouse/depot where the scanner is located.

The customs official shall check the image, information on the customs declaration, and other information obtained at the time of inspection to analyze, assess the image, and give a conclusion. All of the images shall be stored in the scanner system as prescribed; scanned images shall be printed from the System and enclosed with the customs dossier if the paper customs dossier is submitted.

If the scanning result indicates that goods are not consistent with the customs declaration, a physical inspection shall be carried out by the customs official. The customs official that operates the scanner shall make a request for physical inspection.

b.2) If the Sub-department of Customs does not have a container scanner, physical inspection of goods shall be carried out by customs officials.

3. The Sub-department of Customs at the checkpoint shall carry out physical inspection of goods of the shipments of exported and imported goods at the request of other Sub-departments of Customs in accordance with Clause 11 of this Article.

4. Physical inspection of goods at the Sub-department of Customs to which imported goods are transported (hereinafter referred to as “receiving customs authority”):

a) If no violations are found after the shipment is scanned as prescribed in Clause 1 of this Article, the result may be used for deciding customs clearance of goods as prescribed;

1) If violations are found after scanning as prescribed in Clause 1 of this Article, the Sub-department of Customs at the checkpoint shall seal the goods and request the declarant to transport them to the Sub-department of Customs where the customs declaration is registered for inspection;

c) If goods have not been scanned as prescribed in Clause 1 of this Article, the inspection shall be carried out in accordance with Point b Clause 2 of this Article.

5. Inspection of goods quantity

According to the customs declaration, result of physical inspection of goods or analysis result provided by the declarant (if any), the customs authority shall determine the weight of exported or imported goods.

If the customs official who carries out the physical inspection of goods is not able to determine the accuracy of the declared weight of goods, a provider of analysis services shall be requested to

run analysis. The customs authority shall decide the customs clearance according to the conclusion of the provider of analysis services.

6. Inspection of goods quality

During the physical inspection of goods, the customs official must determine the quality of exported or imported goods, which is the basis for application of tax policies and policies on management of exported or imported goods, except for quality inspection prescribed by corresponding regulations of laws.

If the customs official who carries out the physical inspection of goods is not able to determine the quality of goods, the goods shall be analyzed by a provider of analysis services as prescribed by law. The customs authority shall decide the customs clearance according to the conclusion of the provider of analysis services.

7. Physical inspection to determine goods names, codes, customs value, origins shall comply with Articles 24, 25, and 26 of this Circular.

8. With regard to goods with special storage requirements that cannot undergo on-site physical inspection, the Director of Sub-department of Customs shall decide to move such goods to another location that satisfy their special storage requirements to carry out the physical inspection, or decide the customs clearance according to the analysis result.

9. With regard to a means of transport that has completed exit procedures, if its owner signs a sale contract with a foreign party (which states that the port of destination is overseas), the declaration of exported goods shall be registered at the Sub-department of Customs where exit procedures are completed. Documents proving that the means of transport has completed exit procedures shall be sent to the said Sub-department of Customs. In this case, physical inspection of goods is exempt.

10. With regard to goods temporarily imported that cannot be sealed by the customs, goods temporarily imported or temporarily exported with other time limits or not subject to customs sealing, the customs official shall describe the goods names, quantity, categories, symbols, origins (if any), or take pictures of goods and enclosed them with the customs dossier when carrying out inspection. While following procedures for re-export or re-import, if goods must undergo document inspection or physical inspection, the customs official shall compare the goods with description in the customs dossier kept at the customs authority in order to determine whether the re-exported or re-imported goods are the same as those temporarily imported or temporarily exported.

11. Physical inspection of goods at request of the Sub-department of Customs where the customs declaration is registered:

a) After receiving the request from the Sub-department of Customs where the customs declaration is registered sent via the System, the Sub-department of Customs where goods are stored shall carry out the physical inspection. If two Sub-departments of Customs are not

connected to the System, the Sub-department of Customs where the customs declaration is registered shall:

a.1) Make 02 copies of the inspection result sheet (form No. 06/PGKQKT/GSQL in Appendix V); 02 copies of the Request for physical inspection of goods (form No. 07/PĐNKKT/GSQL in Appendix V) and enclose 01 customs declaration (original) In case of paper-based customs declaration;

a.2) Seal the documents mentioned in Point a.1 of this Clause and request the declarant to submit them to the Sub-department of Customs where goods are stored.

b) The declarant shall register the time, location of inspection with the Sub-department of Customs where physical inspection of goods is carried out;

c) If exported or imported goods are eligible for tax exemption, not subject to tax, or incurring zero tax, or tax payment is deferred for 275 days (for goods imported for manufacturing of goods for export), the declarant may take goods through the customs controlled area before the Sub-department of Customs where the customs declaration is registered updates the inspection result on the System to decide the customs clearance or release of goods or putting goods to storage.

Article 30. Handling customs inspection result

1. If the result of document inspection or physical inspection of goods is appropriate for the customs declaration contents:

a) If goods must be put into storage: Article 32 of this Circular shall apply;

b) If goods must be released: Article 33 of this Circular shall apply;

c) If goods must be granted clearance: Article 34 of this Circular shall apply.

2. If the customs declaration contents are not appropriate, the customs authority shall request the declarant to make additional declaration as prescribed in Clause 3 Article 20 of this Circular.

In case of violations against regulations of law on management of exported or imported goods, the declarant is not permitted to make additional declaration and shall be dealt with by the customs authority as prescribed by law.

Article 31. Taking, storing samples of exported or imported goods

1. Exported or imported goods shall be sampled in the following cases:

a) Samples are taken to serve customs declaration at the request of the declarant or specialized agency;

b) Samples are taken for analysis at the request of the customs authority.

2. The sampling shall be decided by the head of the customs authority.

3. Procedures for sampling exported or imported goods

a) If samples are taken for analysis by a professional analysis organization at the request of the declarant or customs authority, the representatives of the goods owner and the customs authority must be present when samples are taken and a sampling record must be made (form No. 08/BBLM/GSQL in Appendix V enclosed herewith).

If samples are taken for analysis by a professional analysis organization at the request of the customs authority, the samples must be sealed and bear the signatures of the representatives of the goods owner and the customs authority. A delivery note which bears signatures of all parties must be made when the samples are delivered to the analysis organization;

b) If samples are taken for analysis and classification, regulations of the Minister of Finance on classification of goods, analysis serving classification of goods; analysis serving inspection of quality, food safety of exported or imported goods shall apply;

c) If samples are taken at the request of a specialized agency, sampling procedures shall comply with corresponding regulations of laws.

d) When samples are taken by the customs authority or specialized agency, the declarant shall present the goods and cooperate with them during the sampling process.

4. If samples are taken for analysis, sampling techniques shall comply with instructions of the General Department of Customs.

If samples are taken to serve inspection by a specialized agency, sampling techniques shall comply with corresponding regulations of laws.

5. The customs authority shall retain the samples taken for analysis for 120 days from the day on which the customs declaration is registered.

6. Samples shall be returned and destroyed in accordance with regulations of the Minister of Finance on classification of goods, analysis serving classification of goods; analysis serving inspection of quality, food safety of exported or imported goods.

Article 32. Putting goods in storage

1. Goods of preferred enterprises shall be put in storage as prescribed in Clause 3 Article 9 of Decree No. 08/2015/NĐ-CP and the Circular of the Ministry of Finance on preferred enterprises.

2. Goods subject to quarantine

Quarantine shall be carried out at the checkpoint. In case the quarantine authority permits goods to be moved to inland quarantine locations as prescribed by law:

- a) The customs authority shall consider permitting the goods owner to move goods to the quarantine location according to the confirmation of the quarantine authority on the Certificate of Quarantine Registration or the Note of Provisional Plant Quarantine Result (for plant-derived goods) or Goods Transport Note (for aquaculture products) or other documents issued by the quarantine authority;
- b) The declarant is legally responsible for the transport and preservation of goods at the quarantine location and only use or sell goods after there is a conclusion that the goods satisfy import requirements;
- c) The quarantine authority shall monitor transport, quarantine, and preservation of goods pending quarantine result as prescribed by the Ministry of Health and the Ministry of Agriculture and Rural Development.

3. Goods subject to quality inspection and food safety inspection

Inspections shall be carried out at the checkpoint; if goods are moved to another location for inspection as requested by the specialized agency or the declarant wishes to put their goods into storage, the declarant shall make a written request (form 09/BQHH/GSQL in Appendix V enclosed herewith). Director of Sub-department of Customs where the customs declaration is registered shall consider permitting goods to be put into storage at an inland clearance depot (ICD), bonded warehouse, tax-suspension warehouse, concentrated inspection places for exported or imported goods under the supervision of customs authorities; specialized inspection places, or the declarant's warehouse/depot.

The declarant is legally responsible for the transport and preservation of status quo of goods until the customs authority concludes that goods satisfy import requirements and grants customs clearance.

4. With regard to imported goods subject to both quarantine and food safety inspection, both quarantine and quality inspection, procedures for putting goods into storage are similar to those for imported goods subject to quarantine prescribed in Clause 2 of this Article.

5. Handling result of inspection by a specialized agency:

a) If the inspection result indicates that goods satisfy import requirements, the Sub-department of Customs shall decide customs clearance of goods as prescribed in Article 34 of this Circular;

b) If goods do not satisfy import requirements:

According to the conclusion given by the specialized agency, which permits the declarant whether to recycle, destroy, or re-export goods, the Sub-department of Customs where the customs declaration is registered shall take appropriate actions.

6. Actions against delayed submission of inspection results and violations against regulations on storage of goods:

a) If the specialized agency has not connected with National Single-window Information Portal, the declarant shall submit the inspection result to the Sub-department of Customs where the customs declaration is registered within 30 days from the day on which goods are put into storage, except for prolonged inspection confirmed by the specialized agency;

b) If the customs authority does not receive the inspection result by the deadline mentioned in Point a of this Clause, or the customs authority is informed that the shipment of imported goods is not preserved properly as prescribed by law, the Sub-department of Customs where the customs declaration is registered shall carry out an inspection or cooperate with the customs authority in charge of the place of storage in inspecting the preservation of the declarant's goods and take appropriate actions.

Procedures for inspection of goods preservation shall comply with Clause 7 of this Article;

c) If violations against regulations on storage of goods are committed, in addition to administrative penalties, the declarant shall not be permitted to put their goods into storage:

c.1) for 01 years from the penalty imposition date if the declarant breaks the seal without permission; swap goods; sell or use goods without permission; preserve goods at a location other than that registered with the customs authority;

c.2) for 06 months from the penalty imposition date if the declarant fails to submit inspection result punctually as prescribed in Point a of this Clause.

Point c.1 and Point c.2 shall apply to the violations from the effective date of this Circular.

d) Each Sub-department of Customs where the customs declaration is registered shall compile a list of enterprises that are not permitted to put goods into storage and send it to Customs Department for applying nationwide.

7. Procedures for inspection of goods preservation:

a) The Sub-department of Customs where the customs declaration is registered shall inspect goods preservation or request Customs Department to carry out the inspection.

If the goods preservation location is not under the management of the Customs Department which permits the goods to be put into storage, the Customs Department in charge of the goods preservation location shall carry out the inspection at the request of the former;

b) The declarant shall present goods being preserved for the customs authority to inspect;

c) The declarant that fails to protect the status quo of goods shall be dealt with as prescribed by law.

Article 33. Release of goods

Goods shall be released in accordance with Article 36 of the Law on Customs, Clause 1 Article 32 of Decree No. 08/2015/NĐ-CP, and the following instructions:

1. Release of goods pending customs valuation:

a) If exported or imported goods do not have official prices when the declaration is registered and the declarant requests a consultation:

a.1) Responsibilities of the declarant:

a.1.1) Request release of goods on the customs declaration as instructed in Appendix II enclosed herewith. In case of paper-based customs declaration, the text “Đề nghị giải phóng hàng” (“Goods release requested”) shall be written in box “Ghi chép khác” (“Notes”) on the declaration;

a.1.2) Pay tax or get guarantee for the tax calculated by the declarant;

a.1.3) Follow procedures for customs valuation of exported or imported goods that do not have official prices when the declaration is registered in accordance with the Circular of the Ministry of Finance on customs valuation of exported goods and imported goods or regulations on consultation in Article 25 of this Circular;

a.1.4) Declare customs values on the customs declaration (or the post-clearance declaration using form No. 03/KBS/GSQL in Appendix V enclosed herewith in case of paper-based customs declaration) within 30 days from the date of goods release; determine the official tax payable and pay tax fully in order to obtain customs clearance of goods as prescribed.

a.2) Responsibilities of the customs authority:

a.2.1) The Director of the Sub-department of Customs shall decide the release of goods as prescribed in Article 32 of Decree No. 08/2015/NĐ-CP;

a.2.2) Follow procedures for customs valuation of exported or imported goods that do not have official prices when the declaration is registered in accordance with the Circular of the Ministry of Finance on customs valuation of exported goods and imported goods or hold a consultation as prescribed in Clause 3 Article 25 of this Circular.

b) In case the declarant has not had sufficient information and documents to determine customs values of exported or imported goods when the customs declaration is registered:

b.1) Responsibilities of the declarant:

b.1.1) Request release of goods on the customs declaration as instructed in Appendix II enclosed herewith (specify the case of goods release);

b.1.2) Declare and calculate tax according to the customs values determined by the customs authority:

b.1.2.1) Write the text “Đề nghị giải phóng hàng” (“Goods release requested”) in box “Ghi chép khác” (“Notes”) on the declaration if the values determined by the customs authority are not concurred with (in case of paper-based customs declaration); pay tax or get guarantee for according to the values determined by the customs authority in order to obtain goods release. Declare the customs values on the customs declaration (or the post-clearance declaration using form No. 03/KBS/GSQL in Appendix V enclosed herewith in case of manual customs procedures) within 30 days from the date of goods release; determine the official tax payable and pay tax fully in order to obtain customs clearance of goods as prescribed;

b.1.2.2) Declare the customs values determined by the customs authority on the customs declaration, pay tax or get guarantee for tax if such customs values are concurred with in order for the customs authority to decide customs clearance as prescribed.

b.2) Responsibilities of the customs authority:

b.2.1) The Director of the Sub-department of Customs shall determine customs values according to the value database, rules and methods for determination of customs value in the Circular of the Ministry of Finance on customs valuation of exported goods and imported goods, notify the declarant (via the System or using the form No. 02B/TBXĐTĐ/TXNK in Appendix VI enclosed herewith in case of paper-based customs declaration) as the basis for tax calculation; decide release or customs clearance of goods as prescribed in Article 32 of Decree No. 08/2015/NĐ-CP;

b.2.2) If the declarant fails to declare the customs values within 30 days from the date of goods release, the customs authority shall grant customs clearance of goods as prescribed in Article 34 of this Circular if the declarant has fully paid tax at the customs values determined by the customs authority according to Point b.2.1 of this Clause.

2. Release of goods pending result of analysis and classification:

a) Responsibilities of the declarant:

a.1) Request release of goods on the customs declaration as instructed in Appendix II enclosed herewith. In case of paper-based customs declaration, the text “Đề nghị giải phóng hàng” (“Goods release requested”) shall be written in box “Ghi chép khác” (“Notes”) on the declaration;

a.2) Pay tax or get guarantee for the tax calculated by the declarant;

a.3) Make additional declaration as prescribed in Article 20 of this Circular.

b) Responsibilities of the customs authority:

- b.1) The customs authority shall inspect fulfillment of conditions for goods release and answer the declarant;
- b.2) According to the result of analysis and classification, the Sub-department of Customs where the customs declaration is registered shall request the declarant to make additional declaration (if required);
- b.3) If the declarant fails to make additional declaration as requested, the customs authority shall follow instructions in Point b.7 Clause 3 Article 20 of this Circular;
- b.4) The Director of the Sub-department of Customs shall decide goods release according to the declarant's request and customs dossier.

Article 34. Customs clearance of goods

Customs clearance of goods shall be granted in accordance with Article 37 of the Law on Customs, Clause 2 Article 32 of Decree No. 08/2015/NĐ-CP, and the following instructions:

1. Goods shall be granted customs clearance in the following cases:

a) Customs procedures are completed:

b) Exported or imported goods are in the following cases:

b.1) Goods are eligible for applying the time limit for paying tax prescribed in Clause 11 Article 1 of the Law on the amendments to the Law on Tax administration and Article 42 of this Circular; or

b.2) Tax must be paid before customs clearance; however tax is not paid or not fully paid but guaranteed by a credit institution.

c) One of the document of the customs dossier is missing but the Director of Sub-department of Customs extends the deadline for submission of the original copy as prescribed in Clause 3 Article 27 of Decree No. 08/2015/NĐ-CP;

d) Goods subject to inspection by a specialized agency shall be granted customs clearance when tax liabilities are fulfilled and one of the following documents is available:

d.1) A notice of exemption from inspection;

d.2) Inspection result which indicates fulfillment of requirements applied to imported goods;

d.3) A conclusion of the specialized agency or a decision issued by a competent authorities with regard to the permitted shipment of imported goods.

dd) Tax on exported or imported goods is yet to be paid while pending procedures for tax exemption or tax cancellation shall be granted customs clearance in the following cases:

dd.1) Goods directly serving national defense and security on which special excise tax, environmental protection tax, and other taxes (if any) have been fully paid;

dd.2) Goods serving disaster control, prevention of epidemics, emergency assistance; humanitarian aid, grant aid on which relevant taxes (if any) have been fully paid;

dd.3) Tax on goods that are paid by state budget is yet to be paid by state budget as confirmed by a competent authority.

2. Decision on customs clearance of goods

a) If the inspection result is satisfactory, the System shall automatically check the fulfillment of tax liabilities and decide whether to grant customs clearance;

b) If the System fails to perform such check, the declarant shall submit documents proving fulfillment of tax liabilities (receipt for payment to state budget, guarantee documents, etc.) for the customs official to check and confirm fulfillment of tax liabilities: submit photocopies and present original for comparison;

c) With regard to in case of paper-based customs declaration:

c.1) The customs official who grants registration to the customs declaration shall decide customs clearance of goods exempt from physical inspection;

c.2) In case the shipment on the customs declaration must undergo physical inspection:

c.2.1) The customs official who carries out physical inspection shall decide customs clearance of goods that must undergo physical inspection;

c.2.2) If the shipment is inspected by another Sub-department of Customs at the Sub-department of Customs where the customs declaration is registered, the latter shall decide customs clearance of goods according to the inspection result sent by the former.

Section 4. Time, exchange rate, basis, methods for calculation of export tax, import tax, safeguard tax, anti-dumping tax, and countervailing tax

Article 35. Time, exchange rate for calculating taxes on exported or imported goods

1. The time for calculating export tax, import tax, safeguard tax, anti-dumping tax, and countervailing tax (within the effective period of the Decision of the Minister of Industry and Trade) is the registration date of the customs declaration. Export tax, import tax shall be calculated according to the tax rates, dutiable values, and exchange rates at that time.

If the taxpayer declares, calculates tax on the paper customs declaration before the registration date with different exchange rate from the exchange rate applicable on the registration date, the customs authority shall recalculate the tax payable according to the exchange rate applicable on the registration date.

2. Exchange rates for tax calculation shall comply with Decree No. 08/2015/NĐ-CP.

a) The General Department of Customs shall cooperate with Vietcombank to update buying rates in the form of wire transfer announced by the headquarter at the end of Thursdays (or the day before if Thursday is a public holiday), announce the rate on the website of the General Department of Customs, and update it on the System in order to apply to customs declarations registered in the succeeding weeks;

b) With regard to the foreign currencies that are not announced by the headquarter of Vietcombank, the General Department of Customs shall update the exchange rates announced by the State bank of Vietnam posted on its website, announce it on the website of the General Department of Customs, and update it on the System in order to determine exchange rates for calculating taxes on exported or imported goods.

Article 36. Time for calculating taxes on exported and imported goods on all-inclusive customs declaration

1. In case an all-inclusive customs declaration is used for partial shipments of exported/imported goods, taxes shall be calculated by whenever an export or import is made at the time of following customs procedures. Export tax/import tax shall be calculated according to the exchange rates, dutiable values, and exchange rates applicable on that day according to the practical exported/imported quantity of each article.

2. If the all-inclusive declaration is registered after delivery, Article 93 of this Circular shall apply.

Article 37. Basis and method for tax calculation at certain rates

1. Basis for tax calculation:

a) Quantity of each article of export/imported goods written on the customs declaration;

b) Customs values as prescribed in the Law on Customs, the Law on Tax administration, the Law on Export and import tax, Decree No. 08/2015/NĐ-CP, the Circular of the Ministry of Finance on customs valuation of exported goods and imported goods;

c) Tax rates

c.1) Rates of export tax on exported goods are specified in the export tax schedule issued by the Minister of Finance;

c.2) Rates of import tax on imported goods vary from article to article, including preferential tax rates, ordinary tax rates, and special preferential tax rates:

c.2.1) Preferential tax rates applied on goods imported from countries, groups of countries or territories granted “most-favoured nation” status by Vietnam. The list of countries, groups of countries or territories granted “most-favoured nation” status by Vietnam shall be announced by the Ministry of Industry and Trade.

Preferential rates of tax on particular articles are specified on the preferential import tariff schedule issued by the Minister of Finance.

The taxpayer shall declare and take legal responsibility for goods origin, which is the basis for determination of preferential rates of import tax;

c.2.2) Ordinary tax rates shall comply with the Law on Export and import tax and regulations of the Government on implementation of the Law on Export and import tax;

c.2.3) Special preferential import tax rates are applied to particular articles that satisfy requirements for application of special preferential import tax rates prescribed in Circulars of the Minister of Finance on preferential import tariff schedules for implementation of Free Trade Agreements.

If goods are imported from a free trade zone (including processed goods) into the domestic market, the following conditions must be satisfied to apply special preferential tax rates imposed by the Minister of Finance:

c.2.3.1) The goods are on the list of special preferential import tariff schedule issued by the Ministry of Finance;

c.2.3.2) Goods have documents certifying goods origin as prescribed by the Ministry of Industry and Trade.

c.2.4) If MFN rate on an article on preferential import tariff schedule is lower than the special preferential tax rate in the special preferential import tariff schedule, the MFN rate shall apply.

d) Apart from the taxes mentioned in Points c.2.1, c.2.2, or c.2.3 of this Clause, if goods are imported into Vietnam beyond the limits, there are subsidies, dumping, or discrimination against goods exported by Vietnam, countervailing tax, anti-dumping tax, anti-discrimination tax, and safeguard tax shall be imposed.

2. Method for tax calculation:

a) According practical quantity of each article on the customs declaration, their dutiable values, and tax rates, the amount of export tax, import tax payable shall be calculated as follows:

$$\text{Export tax,} \quad = \quad \text{Quantity of each article} \quad \times \quad \text{Dutiable value} \quad \times \quad \text{Tax rate}$$

import tax payable	written on the customs declaration	of a unit of goods	on each article
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Import tax on crude oil or natural gases shall be calculated in accordance with instructions of the Ministry of Finance on taxes incurred by entities engaged in petroleum exploration and extraction as prescribed by the Law on Petroleum;

b) If the practical quantity of exported or imported goods is different from the commercial invoice because of their nature and such difference is conformable with the delivery terms and payment terms of the sale contract, the export tax, import tax payable shall be calculated according to the practical payment for the goods and tax rate on each article.

Example: A enterprise imports 1,000 tonnes of threaded tobacco under a contract at USD 100 per tonne \pm 2% water. The payment on the commercial invoice is 1,000 tonnes x USD 100 = USD 100,000. Upon importation, if the weight determined by the customs authority is 1020 tonnes or 980 tonnes, the taxable value is still USD 100,000.

Article 38. Basis and method for calculating fixed tax and mixed tax

1. Basis for tax calculation:

a) Basis for calculating fixed tax:

a.1) Practical quantity of each article written on the customs declaration that applies fixed tax;

a.2) The fixed amount of tax on a unit of goods;

a.3) Exchange rates:

b) Basis for calculating mixed tax:

b.1) Practical quantity of each article written on the customs declaration that applies mixed tax;

b.2) Tax rate and dutiable values of goods that apply mixed tax according to Point b and Point c Clause 1 Article 37 of this Circular;

b.3) Fixed tax on goods that apply mixed tax prescribed in Point a Clause 1 of this Article;

b.4) Exchange rates for tax calculation:

2. Method for tax calculation:

a) Determination of export tax, import tax payable at absolute rate:

Fixed export tax, import tax payable	=	Practical quantity of each article written on the	x	Fixed tax on a unit of goods	x	Exchange rate for tax
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customs declaration that
apply fixed tax

calculation

b) Determination of export tax, import tax payable that apply mixed tax:

$$\begin{array}{ccccc} \text{Export tax, import tax} & & \text{Tax calculated as} & & \text{Fixed tax payable} \\ \text{payable on goods that apply} & = & \text{prescribed in Clause 2} & + & \text{calculated as prescribed in} \\ \text{mixed tax} & & \text{Article 37 of this} & & \text{Point a Clause 2 of this} \\ & & \text{Circular} & & \text{Article} \end{array}$$

Article 39. Safeguard tax, anti-dumping tax, countervailing tax

1. Importers of goods subject to safeguard tax, anti-dumping tax, or countervailing tax according to Decisions of the Minister of Industry and Trade are the taxpayers.

2. Basis for tax calculation:

a) Practical quantity of each article written on the customs declaration that applies safeguard tax, anti-dumping tax, or countervailing tax;

b) Dutiable values of each article that applies safeguard tax, anti-dumping tax, countervailing tax;

c) Rate of tax on each article as prescribed in Point d Clause 1 Article 37 of this Circular.

3. Method for tax calculation:

$$\begin{array}{ccccc} \text{Safeguard tax, anti-} & & \text{Practical quantity of each} & & \text{Rate of safeguard} \\ \text{dumping tax, or} & = & \text{article written on the} & \times & \text{tax, anti-dumping} \\ \text{countervailing tax} & & \text{customs declaration that} & \text{Taxable} & \text{tax, or} \\ & & \text{applies safeguard tax, anti-} & \text{price} & \text{countervailing tax} \\ & & \text{dumping tax, or} & & \\ & & \text{countervailing tax} & & \end{array}$$

$$\begin{array}{ccccc} \text{Total amount of tax payable} & & \text{Tax payable calculated as} & & \text{Amount of} \\ \text{on goods that apply safeguard} & = & \text{prescribed in Clause 2 Article} & + & \text{safeguard tax, anti-} \\ \text{tax, anti-dumping tax, or} & & \text{37 or Clause 2 Article 38 of} & & \text{dumping tax, or} \\ \text{countervailing tax} & & \text{this Circular} & & \text{countervailing tax} \end{array}$$

4. Time for tax calculation, deadline for paying tax

a) The time for tax calculation shall comply with Article 35 of this Circular;

b) The deadline for tax payment shall comply with Clause 6 Article 42 of this Circular.

5. Tax collection and tax refund:

a) Tax collection:

a.1) Safeguard tax, anti-dumping tax, and countervailing tax shall be paid to the same account of state budget to which import tax is paid;

a.2) In case of materials and supplies imported for manufacturing of goods for export; temporarily imported goods on which import tax is paid to a deposit account of the customs authority, safeguard tax, anti-dumping tax, and countervailing tax shall be paid to the same deposit account of the customs authority as if import tax.

b) Tax refund:

The amount of safeguard tax, anti-dumping tax, or countervailing tax paid under a Decision on temporary imposition of safeguard tax, anti-dumping tax, or countervailing tax issued by the Ministry of Industry and Trade that is in excess of the official amount shall be refunded to the taxpayer.

The procedures for refunding overpaid tax are specified in Article 49 and Article 132 of this Circular.

6. Other instructions of the Ministry of Finance shall apply to collection, refund, and other tax policies.

Article 40. Application of basis for tax calculation in some special cases

1. With regard to goods that have been repurposed and thus no longer eligible for conditional tax exemption, preferential tax rates, or tax rates within tariff-rate quota, the basis for tax calculation is the dutiable values, tax rates, and exchange rates at the time of registering the new declaration. Where:

a) Customs values of imported goods shall comply with the Law on Customs, Decree No. 08/2015/NĐ-CP, and the Circular of the Ministry of Finance on customs values of exported goods and imported goods;

b) The rate of import tax shall be the rate at the time of registering the new declaration. Other regulations of the Ministry of Finance shall apply to cars and motorbikes being belongings of Vietnamese citizens residing overseas that have been granted registration of permanent residences in Vietnam, cars and motorbikes of entities provided with diplomatic immunity and privileges in Vietnam that are repurposed.

If the customs authority or another competent authority finds that goods are repurposed or sold domestically instead of being re-exported but the taxpayer fails to voluntarily declare and pay tax, the taxpayer shall pay an amount of tax imposed by the customs authority and incur penalties as prescribed in Article 21 of this Circular.

2. If goods are manufactured, processed, recycled, assembled in a free trade zone where materials and components are imported from abroad as prescribed in Clause 16 Article 103 of this Circular, tax shall be calculated according to the Prime Minister's regulations on financial policies applied to economic zones at checkpoints and guiding documents of the Ministry of Finance.

3. With regard to imported goods that also incur safeguard tax/anti-dumping tax/countervailing tax/anti-discrimination tax, the amount of safeguard tax/anti-dumping tax/countervailing tax/anti-discrimination tax shall be added to the price for calculating special excise tax, VAT.

Section 5. Payment of taxes and fees

Article 41. Tax payment currencies

1. Taxes on exported or imported goods shall be paid in VND. If taxes are paid in foreign currencies, only convertible foreign currencies are permitted. Exchange rates between foreign currencies and VND shall comply with Clause 2 Article 35 of this Circular.

2. If taxes have to be paid in foreign currencies but official prices are not available when the declaration is registered:

a) The taxpayer may pay a provisional amount of tax in a foreign currency before customs clearance or release of goods. After official prices are available and the taxpayer is paid in foreign currency by the foreign client, the difference (if any) shall be paid in foreign currency; or

b) The taxpayer may pay a provisional amount of tax in VND before customs clearance or release of goods. After official prices are available and the taxpayer is paid in foreign currency by the foreign client, the difference (if any) shall be paid in foreign currency; or Exchange rates between foreign currencies and VND shall comply with Clause 2 Article 35 of this Circular.

Article 42. Deadline for paying tax

Deadlines for paying taxes on exported or imported goods are prescribed in Clause 3 Article 42 of the Law on Tax administration, which is amended in Clause 5 and Clause 6 Article 1 of the Law No. 21/2012/QH13. Specific instructions are provided below:

1. With regard to materials and supplies imported for manufacturing of goods for export:

a) In order to apply the 275-day time limit, the taxpayer must satisfy the conditions below:

a.1) The taxpayer has a establishment in Vietnam's territory for manufacturing of goods for export, has the lawful right to use the premises, facilities (including those associated with land); has the right to own or right to use machinery and equipment at the manufacturing establishment that Article suitable for materials and supplies imported for in Vietnam's territory;

a.2) The taxpayer has engaged in export/import for at least 02 years prior to the registration date of the customs declaration of the shipment of materials and supplies imported for in Vietnam's territory, and the customs authority determines that throughout that 2-year period:

a.2.1) the taxpayer is not penalized for smuggling or illegal transport of goods across the border;

a.2.2) the taxpayer is not penalized for tax evasion or trade fraud;

a.3) The taxpayer does not owe overdue taxes, late payment interest, fines on exported or imported goods when the declaration is registered;

a.4) The taxpayer does not incur any penalty for accounting offenses for 02 consecutive years from the registration date of the customs declaration;

a.5) The taxpayer makes payment for goods imported for manufacturing of goods for export via a bank. The cases in which payments are considered made via a bank are specified in Clause 4 of Appendix VII enclosed herewith.

The taxpayer shall make declaration and take responsibility for the declaration of fulfillment of conditions for applying 275-day time limit using form No. 04/DKNT-SXXX/TXNK in Appendix VI enclosed herewith.

b) In case of import entrustment, the entrusting party must satisfy all conditions in Point a and have the import entrustment contract; the trustee must satisfy all conditions in Points a.2, a.3, a.4, a.5 of this Clause;

c) In case a parent company imports goods to supply its associate companies, an associate company imports goods to supply other associate companies; an associate company imports goods to supply its affiliated units:

c.1) In case goods are imported by a parent company to supply associate companies, then the associate companies must satisfy all conditions in Points a.1, a.2, a.3, a.4 and the parent company must satisfy all conditions in Points a.2, a.3, a.4, a.5 of this Clause;

c.2) In case goods are imported by an associate company to supply other associate companies, then the other associate companies must satisfy all conditions in Points a.1, a.2, a.3, a.4 and the importing company must satisfy all conditions in Points a.2, a.3, a.4, a.5 of this Clause;

c.3) In case goods are imported by an associate company to supply its affiliated unit:

c.3.1) If goods are manufactured and exported by the affiliated unit, but the associate company has the right to own the manufacturing facilities, the associate company has the right to own or use the machinery and equipment, then the affiliated unit must satisfy all conditions in Points a.2, a.3, a.4 and the associate company must satisfy all conditions in Point a of this Clause;

c.3.2) If goods are manufactured and exported by the affiliated unit, the manufacturing facilities are under the ownership of the affiliated unit, the machinery and equipment are under the ownership or enjoyment of the affiliated unit, then the affiliated unit must satisfy all conditions in Points a.1, a.2, a.3, a.4; and the associate company must satisfy all conditions in Point a.2, a.3, a.4, a.5 of this Clause.

When following procedures for importing materials and supplies, the parent company or the associate company which imports materials and supplies must provide the customs authority with the list of associate companies or affiliated units as declared with the tax authority in order to obtain the taxpayer ID number (TIN) as prescribed in Circular No. 80/2012/TT-BTC dated May 22, 2012 of the Ministry of Finance.

d) If any of the conditions mentioned in Point a of this Clause is not satisfied but the tax is guaranteed by a credit institution, the guarantee shall comply with Article 43 of this Circular. Time limit for paying tax is the same as the guarantee duration. Nevertheless, the time limit must not exceed 275 days from the customs declaration registration date. Late payment interest shall not be charged during the guarantee period.

dd) In case materials and supplies imported for manufacturing of products for export that are eligible for 275-day time limit are in fact not used for manufacturing of goods for export or any of the conditions in Point a of this Clause is not satisfied, or products are exported after the deadline for paying tax:

dd.1) If goods are sold domestically instead of being re-exported: The taxpayer must pay all taxes payable as prescribed by law before completing procedures for domestic sale of goods instead of re-export; procedures for declaring domestic sale of goods instead of re-export, registration of the new declaration and tax calculation shall comply with Article 21 and Article 40 of this Circular;

dd.2) If products are exported after the 275-day time limit for paying tax though the taxpayer satisfies all conditions because the manufacture or reserve cycle is longer than 275 days, the client terminates the contract, the time of delivery is delayed, tax deferral shall be granted as prescribed in Article 135 of this Circular;

dd.3) If any of the conditions in Point a of this Clause is not satisfied (and no guarantee is provided): the taxpayer must pay all taxes and late payment interest incurred over the period from the registration date of the declaration of imported goods to the tax payment date, and also incurs penalties as prescribed.

2. With regard to temporarily imported goods

a) The taxpayer must pay import tax and other taxes prescribed by law (if any) before completing procedures for temporary import of goods. If taxes have not been paid and are guaranteed by a credit institution, the guarantee shall comply with Article 43 of this Circular. Time limit for paying tax is the same as the guarantee duration. Nevertheless, the time limit must not exceed 15

days from the expiration of the temporary import period (unless this period is extended). Late payment interest shall not be charged during the guarantee period;

b) If goods are re-exported after the expiration of the guarantee period, late payment interest shall be charged for the period from the expiration of the guarantee period to the practical re-export date or tax payment date (whichever comes first);

c) If permission for paying tax by the end of the guarantee period is granted but goods are sold domestically instead of being re-exported, all taxes must be paid before completing procedures for domestic sale of goods. Procedures for declaration of domestic sale of goods instead of re-export, registration of the new declaration, and tax calculation shall comply with Article 21 and Article 40 of this Circular.

3. With regard to exported or imported goods prescribed in Point c Clause 3 Article 42 of the Law on Tax administration, which is amended in Clause 11 Article 1 of the Law No. 21/2012/QH13, the taxpayer must pay tax before goods are released or granted customs clearance.

If taxes are guaranteed by a credit institution, the guarantee shall comply with Article 43 of this Circular. The time limit for paying tax is the same as the guarantee duration and must not exceed 30 days from customs declaration registration date. However, late payment interest is still charged for the period from the date of customs clearance or release of goods to the practical tax payment date. Late payment interest is specified in Article 106 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration, amended in the law No. 71/2014/QH13, and instructed in Article 133 of this Circular.

4. Time limits for paying taxes in special cases (except for the case in which outstanding tax may be paid in instalments prescribed in Clause 25 Article 1 of the Law No. 21/2012/QH13 on amendments to the Law on Tax administration):

a) With regard to partial shipments of exported/imported goods on an all-inclusive customs declaration prescribed in Article 36 and Article 93 of this Circular, the time limit for paying tax varies from case to case as prescribed in this Article, and are applied to each shipment;

b) With regard to exported or imported goods that are still under the supervision of the customs authority but impound by a competent authority for investigation, the time limit for paying tax shall begins on the day such goods are released;

c) With regard to goods that are imported to directly serve national defense and security, granted customs clearance or released, and awaiting decision on conditional tax exemption, if it is determined that such goods are not eligible for conditional tax exemption, taxes shall be fully paid, the time limit for paying tax and late payment interest shall be recalculated according to the period from the date of customs clearance or release of goods to the practical tax payment date, and penalties shall be imposed (if any);

d) With regard to goods that are imported to directly serve scientific research, education, training, and eligible for conditional tax exemption, the taxpayer must implement the latest decision on tax payable issued by the customs authority pending a decision on conditional tax exemption. If it is determined that such goods are not eligible for conditional tax exemption, taxes shall be fully paid, the time limit for paying tax and late payment interest shall be recalculated according to the period from the date of customs clearance or release of goods to the practical tax payment date, and penalties shall be imposed (if any);

dd) If payment for goods covered by state budget yet to be made, taxes shall be paid within 05 working days from the receipt of money paid by the state budget.

Late payment interest shall be charged as prescribed in Article 133 of this Circular if the taxpayer fails to pay taxes by the said deadline.

The taxpayer must present documents issued by State Treasury about the amount paid by state budget in order to pay tax to the customs authority where the customs declaration is registered: 01 photocopy;

e) In case of additional declaration to pay tax arrears, the time limit for paying tax arrears shall be the same as the time limit for paying tax on the declaration.

5. Time limit for paying imposed tax

A) With regard to customs declarations registered from July 01, 2013, the time limit for paying tax imposed by the customs authority is the same as the time limit written on such declarations;

b) With regard to declarations registered before July 01, 2013, if the customs authority imposes tax from the effective date of this Circular, the deadline for paying tax is the issuance date of the decision on tax imposition.

6. Time limit for paying tax on exported crude oil, goods subject to safeguard tax, anti-dumping tax, countervailing tax (except for materials and supplies imported for manufacturing of goods for export, temporarily imported goods, which apply the time limits for paying tax prescribed in Point a, Point dd Clause 1, Point a Clause 2 of this Article) shall comply with Point c Clause 3 Article 42 of the Law on Tax administration, which is amended in Clause 11 of the Law No. 21/2012/QH13. Accordingly, the time limit for paying tax shall comply with Clause 3 of this Article.

7. If official prices are not available when goods are released or granted customs clearance and the taxpayer must pay tax according to the declared prices, the time limit for paying tax shall comply with Clause 3 of this Article.

If the tax temporarily paid or guaranteed before goods are released or granted customs clearance is lower than tax payable when official prices are available, the taxpayer must pay the difference. Late payment interest shall not be charged on such difference. The time of fixing official prices shall be determined as prescribed by law.

If the tax temporarily paid or guaranteed before goods are released or granted customs clearance is higher than tax payable when official prices are available, the excess shall be settled in accordance with Article 49 and Article 132 of this Circular.

8. The deadline for paying taxes on copyright pay, license pay, and the amount paid by the importer from the amount collected after selling, disposing of, using imported goods that were not determined when the declaration is registered (because it depends on the revenue from sale of imported goods or because of other reasons specified in the sale contract or agreement on payment of copyright pay, license pay) is the registration date of the post-clearance additional declaration.

9. Time limits for paying VAT on machinery, equipment, vehicles that are part of a technological line, building materials that cannot be manufactured in Vietnam and need importing to form fixed assets; materials for manufacture of animal feeds and imported pesticides shall comply with Point c Clause 3 Article 42 of the Law on Tax administration, which is amended in Clause 1 Article 1 of the Law No. 21/2012/QH13, Clause 1 Article 3 of the Law No. 71/2014/QH13, which adds Clause 3a to Article 5 of the Law on Value-added tax, instructions in Article 43 of this Circular, and other guiding Circulars promulgated by the Minister of Finance.

Article 43. Tax guarantee

1. Tax guarantee shall be provided in the form of separate guarantee or joint guarantee.

a) Separate guarantee means guarantee provided by a credit institution operating under the Law on credit institutions (hereinafter referred to as “lawful credit institution”) for fulfillment of tax liability of a particular customs declaration. If the taxpayer fails to pay tax and late payment interest (if any) by expiration of the guarantee period, the organization that provides guarantee (hereinafter referred to as “guarantor”) shall pay tax and late payment interest fully on behalf of the taxpayer as prescribed in Clause 11 Article 1 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration; Clause 2 Article 114 of the Law on Tax administration;

b) Joint guarantee means guarantee provided by a lawful credit institution institutions for fulfillment of tax liability of more than one customs declarations at one or some Sub-departments of Customs. Joint guarantee shall be gradually deducted and restored in proportion with the amount of tax payable.

If the taxpayer fails to pay tax and late payment interest (if any) by expiration of the guarantee period, the guarantor shall pay tax and late payment interest fully on behalf of the taxpayer as prescribed in Clause 11 Article 1 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration; Clause 2 Article 114 of the Law on Tax administration.

2. The customs authority shall accept tax guarantee if the following conditions are satisfied:

a) Conditions for taxpayer to get guarantee:

a.1) The taxpayer has engaged in export/import for at least 365 days prior to the registration date of the customs declaration, and throughout that 365-day period:

a.1.1) the taxpayer is not on any customs authority's list of entities that incur penalties for smuggling or illegal transport of goods across the border;

a.1.2) the taxpayer is not on any customs authority's list of entities that incur penalties for tax evasion, tax fraud;

a.1.3) the taxpayer has incurred not more than two penalties for other customs offences (including understatement of tax payable or overstatement of exempted, reduced, refunded, or cancelled tax), the fine for which exceeds the competence of the Director of the Sub-department of Customs as prescribed by the Law on Actions against administrative violations.

a.2) The taxpayer is not on the list of entities that owe overdue taxes, late payment interest, fines when the declaration is registered.

b) There is a letter of guarantee provided by a lawful credit institution which specifies the guaranteed tax, guarantee period, and commitment of ability and responsibility to fully pay tax and late payment interest on behalf of the taxpayer if the taxpayer fails to pay tax by expiration of the guarantee period.

3. Procedures for provision of separate guarantee

a) If tax guarantee is provided, the taxpayer shall submit the letter of guarantee written by the guarantor to the customs authority while following procedures for export or import of a shipment;

b) The contents of the letter of separate guarantee must comply with the form No. 05/TBLR/TXNK in Appendix VI enclosed herewith;

c) The customs authority shall inspect the fulfillment of conditions for guarantee prescribed in Clause 2 of this Article, the contents of the letter of guarantee, and:

c.1) Determine a deadline for paying tax according to the guarantee period, which is not later than the deadline prescribed in Clause 3 Article 42 of the Law on Tax administration, which is amended in Clause 11 Article 1 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration;

c.2) If the guaranteed tax is smaller than the amount of tax payable, the Director of Sub-department of Customs shall grant customs clearance to the quantity of goods corresponding to the guaranteed tax, and take legal responsibility for this action. If the taxpayer wishes to obtain customs clearance for the whole shipment, the taxpayer must pay the unguaranteed tax before receiving goods.

If the imported goods are bulk cargo or liquefied gases, and the guaranteed tax is smaller than the amount of tax payable, the Director of Sub-department of Customs shall grant customs clearance to a quantity of goods which does not exceed the corresponding amount of tax guaranteed;

c.3) If any of the guarantee conditions is not satisfied, the customs authority shall notify the taxpayer of the refusal of tax guarantee. The guarantor shall be requested to certify if the truthfulness of the letter of guarantee is suspicious.

d) Monitoring and settlement of guarantee:

d.1) If the taxpayer fails to pay up the guaranteed tax by expiration of the guarantee period, the guarantor shall fully pay tax and late payment interest on behalf of the taxpayer;

d.2) The customs authority shall monitor, urge the taxpayer and the guarantor to fully pay tax and late payment interest to state budget as prescribed.

Any customs authority that finds that the guarantor fails to adhere to the commitment shall make a notification in writing or on the electronic data system (if any) for other customs units nationwide to reject letters of guarantee written by such guarantor;

d.3) If the taxpayer and the guarantor pay tax and late payment interest (if any) at the same time, the overpaid amount shall be refunded to the guarantor.

4. Procedures for provision of joint guarantee

a) Before initiating procedures for export or import, the taxpayer shall send a written request for permission for joint guarantee of imported goods (form No. 06A/ĐĐNBLC/TXNK in Appendix VI enclosed herewith) to the Sub-department of Customs where the customs declaration is registered;

b) The contents of the letter of joint guarantee must comply with the form No. 06/TBLC/TXNK in Appendix VI enclosed herewith;

c) The customs authority where the customs declaration is registered shall check the fulfillment of guarantee conditions prescribed in Clause 2 of this Article. If all conditions are satisfied, the customs authority shall accept the joint guarantee for multiple declarations of imported/exported goods which are registered during the guarantee period written on the letter of guarantee, and determine the deadline for paying tax on each shipment according to the guarantee period.

If any of the guarantee conditions is not satisfied, the customs authority shall notify the taxpayer of the refusal of tax guarantee.

The customs authority shall send an enquiry about the truthfulness of the letter of guarantee to the guarantor if it is suspicious;

d) Point c.2 Clause 3 of this Article shall apply if the remaining guaranteed tax is lower than the amount of tax payable.

dd) Guarantee shall be monitored and settled as prescribed in Point d Clause 3 of this Article to ensure that the guaranteed amount each time is never higher than the total guarantee value; the guarantee quota shall be restored according to the amount of tax paid. The remaining quota of the letter of guarantee equals (=) the initial quota minus (-) guaranteed tax plus (+) paid tax on the declarations under joint guarantee;

e) If the guarantor makes a written request for revocation of joint guarantee, the customs authority shall immediately terminate the application of joint guarantee on the System, and notify the guarantor of such termination as soon as the guarantor's request is received, provided taxes, late payment interest, fines (if any) of the declarations under joint guarantee have been fully paid.

5. In case of electronic guarantees provided via commercial banks that have entered into agreements on tax collection with the General Department of Customs: Upon receipt of information about the amount of guaranteed tax at a commercial bank via the Electronic Payment System on the Electronic Payment Portal of the General Department of Customs, the customs authority shall update it on the database of the General Department of Customs and grant customs clearance of goods. Guarantees shall be monitored and settled in accordance with Point d Clause 3 and Point dd Clause 4 of this Article.

Article 44. Locations and methods of tax payment

Locations and methods of tax payment shall comply with Circular No. 126/2014/TT-BTC August 28, 2014 of the Ministry of Finance on some procedures for declaration, payment, collection of taxes, late payment interest, fines, and other receivables on exported or imported goods.

Article 45. Payment and collection of customs fees

1. Payers, rates, collection methods, management and use of customs fees shall comply with Circular No. 172/2010/TT-BTC dated November 02, 2010.

If a declaration that has more than 50 lines must be divided, or an article on which tax exceeds the number of digits on the declaration, or the total tax on a declaration exceeds the number of digits on the declaration, only customs fee for the first declaration is collected.

2. Payment method:

The declarant shall pay customs fees by monthly wire transfer or in cash. The Director of the General Department of Customs shall organize the collection of electronic customs fees via commercial banks or organizations authorized to collect by customs authorities (hereinafter referred to as "authorized collectors").

3. Payment locations:

Payers of customs fees shall transfer or pay money at State Treasuries, credit institutions, authorized collectors, or customs authorities.

4. Procedures for payment:

a) If customs fees are paid monthly:

a.1) Within the first 10 days of the next month, the declarant shall fully pay the customs fees of the previous month to the account of the customs authority where the customs declaration is registered. The accounting system of the customs authority shall automatically deduct the paid amount from the outstanding amount in chronological order (first registered, first deducted);

a.2) The customs authority where the customs declaration is registered shall compare the list of customs declarations that incur customs fees, record the receivable, paid, and outstanding customs fees according to applicable regulations;

a.3) If a declarant pays customs fees via an authorized collector, the customs authority shall provide the lists of declarations that incur customs fees of such declarant for the authorized collector via the customs electronic payment portal on the 5th of every month;

a.4) According to the list sent by the customs authority, the authorized collector shall collect customs fees and transfer it to the deposit account of the customs authority at a State Treasury;

a.5) On the 10th of every month, the authorized collector shall make and submit a statement of the amounts of receivable, paid, and outstanding customs fees of every declarant to the customs authority.

b) Any declarant that does not pay customs fees monthly or does not regularly follow customs procedures at a Sub-department of Customs shall pay customs fee every time it is incurred according to the notice of customs fees on the system;

c) If a declarant pays customs fees in cash, the collecting customs official shall write a receipt and record the collected amount as prescribed.

5. The customs authority shall not enforce payment if declarant has outstanding customs fees. The declarant has the responsibility to fully pay customs fees by the deadline prescribed in this Article.

6. Management, monitoring of customs fees (if any) on the Concentrated Accounting System:

a) When receiving the statement from the authorized collector, the Sub-department of Customs where customs procedures are followed must carefully check the amounts of customs fees collected and transferred to its deposit account at a State Treasury, compare them with the practical payment confirmed by the State Treasury. In case of any difference between the

statement sent by the authorized collector and the amount confirmed by the State Treasury, a record must be made to determine the reasons and accountability;

b) According to the amount of customs fees collected and transferred to the customs authority by the authorized collector, receipts of payment to state budget, and confirmation of payment made by the State Treasury, the customs authority shall record the amount of customs fees collected and receivable in order to take appropriate actions.

7. Procedures, responsibilities, and funding for authorizing customs fee collection:

a) The authorization of customs fee collection shall be made into a contract (form No. 07/UNTH/TXNK Appendix VI enclosed herewith) between the Director of the General Department of Customs and the head of the organization authorized to collect customs fees.

b) Responsibilities of the authorized collector:

b.1) Develop a information technology system connected with the customs electronic payment portal to execute the concluded collection authorization contract.

The authorized collector must not authorize any third party to execute the collection authorization contract with the customs authority;

b.2) Receive information about collection of customs fees from customs authorities; fully, promptly collect and transfer customs fees to the deposit account of the customs authority at a State Treasury. The amount of customs fees transferred to the customs authority's deposit account is the total collected amount on the receipts for customs fee collection:

b.3) Issue receipts for customs fee collection to the fee payer upon collection.

Make a list of receipts by payer and a order of payment to State Treasury;

b.4) Not later than the 10th of the next month, the authorized collector must make and send a report on the amount collected and transferred in the previous month (form No 08/BCT/TXNK in Appendix VI enclosed herewith) to the customs authority. The report must reflect the amount receivable, collected, outstanding amount, reasons, and proposed solutions;

b.5) Make and submit statements of collected customs fees to the customs authority.

c) Responsibilities of the authorizing customs authority:

c.1) Announce the authorized collector;

c.2) Issue notices of customs fees payable in the month requesting the authorized collector to collect the fees by the 5th of the next month via customs electronic payment portal;

c.3) Instruct the authorized collector to collect customs fees as prescribed;

c.4) Provide funding for collection of customs fees for the authorized collector under the concluded contract;

c.5) Inspect the collection and transfer of customs fees by the authorized collector.

d) Responsibilities of the State Treasury:

Send receipts for the amount collected and transferred by the authorized collector to the customs authority for monitoring;

dd) Funding for collection authorization

The funding is extracted from the amount of customs fees collected by the customs authority. The amount paid to the authorized collector must comply with the agreement between the General Department of Customs and the authorized collector and suit the practical situation.

Funding for collection authorization must be provided for the right consignees by wire transfer to the authorized collector's account at a credit institution or State Treasury. The funding must not be provided in cash. The customs authority shall provide funding in full for the authorized collector on the basis of the customs fees transferred to the customs authority's deposit account at a State Treasury.

8. Penalties for violations against regulations on customs fees:

Every act of the authorized collector that delays the transfer of collected customs fees to the customs authority's deposit account at a State Treasury shall be considered appropriation of customs fees, and the authorized collector shall be dealt with according to applicable regulations of law.

Article 46. Payment of taxes of goods subject to analysis

The taxpayer must comply with Clause 2 Article 33 and Article 42 of this Circular in order to accurately determine tax on goods subject to analysis.

If the analysis result contravenes the taxpayer's declaration and thus changes the amount of tax payable, then the taxpayer must make additional declaration on the System and pay taxes as soon as the customs authority's notification of the analysis result is available. Late payment interest shall not be charged for the period pending analysis result, or paid tax (if any) shall be refunded.

If the taxpayer fails to make additional declaration, the customs authority shall impose tax. The taxpayer shall pay tax arrears, late payment interest, and fines (if any) as prescribed.

Article 47. Procedures for paying taxes, late payment interest, and fines

1. Outstanding taxes are unpaid taxes on goods that have been released or granted customs clearance.

2. Due taxes, late payment interest, and fines shall be paid in the order prescribed in Article 45 of the Law on Tax administration, which is amended in Clause 12 Article 1 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration, where:

a) Outstanding taxes and late payment interest that are more than 90 days overdue shall be enforced;

b) Outstanding taxes and late payment interest that are less than 90 days overdue shall not be enforced;

3. State Treasuries and customs authority shall exchange information about collection of taxes, late payment interest, and fines to determine the order and collect them properly. Particularly:

a) The customs authority shall monitor tax debts of taxpayers, instruct taxpayers to pay tax in the correct order, development a database system for taxpayers to check and pay taxes as prescribed;

b) According to the receipts for payment of taxes, late payment interest, and fines of taxpayers, State Treasuries shall record payments to state budget, send documents and information about the payments to customs authorities;

c) In case a taxpayer fails to pay taxes, late payment interest, fines in the correct order, the customs authority shall send a request for adjustment of the amount of tax collected to the State Treasury, notify the taxpayer of such adjustment or request the taxpayer to pay other outstanding amounts in the correct order. Exported or imported goods on a new customs declaration shall only be granted customs clearance when the taxpayer does not owe overdue taxes, late payment interest, or fines.

d) If the taxpayer does not specify the amount of each type of tax, late payment interest, and fine on the tax payment document, the customs authority shall record the collected amount of tax, late payment interest, and fine in the correct order, notify the State Treasury and the taxpayer.

Article 48. Tax imposition

1. Tax imposition prescribed in this Circular means the customs authority's exercising its right to determine the factors, basis for tax calculation, calculate tax, and request the taxpayer to pay the tax determined by the customs authority in the cases mentioned in Clause 2 of this Article.

2. The customs authority shall impose tax in the cases prescribed in Clause 3 Article 33 of Decree No. 83/2013/NĐ-CP.

3. Tax imposition must comply with principles in Article 36 of the Law on Tax administration.

4. The basis for tax imposition is the quantities, dutiable values, origins of goods, rates of export tax, import tax, special excise tax, VAT, environmental protection tax, safeguard tax, anti-dumping tax, countervailing tax on practical exported or imported goods; exchange rates, tax calculation method, other information and database prescribed in Clause 2 Article 30 of the Law

on Tax administration, Article 35 of Decree No. 83/2013/NĐ-CP, and Section 5 Chapter II of this Circular.

5. The power to impose tax is specified in Article 33 of Decree No. 08/2015/NĐ-CP.

6. Procedures for tax imposition

a) Taxes on exported or imported goods shall be imposed while customs procedures are being followed or after goods are released or granted customs clearance;

b) When imposing tax, the customs authority must determine the amount of tax payable or relevant factors (goods quantity, dutiable values, codes, tax rates, origins, exchange rates, quotas, etc.) which are the basis for determination of the total amount of tax payable, exempted, reduced, refunded (cancelled) of each article and customs declaration as prescribed in Article 34 of Decree No. 83/2013/NĐ-CP.

When imposing relevant factors, the customs authority shall calculate the corresponding amount of tax payable and notify the taxpayer of both the factors and amount of tax payable;

c) Specific procedures:

c.1) Determine goods subject to tax imposition as prescribed in Clause 2 of this Article;

c.2) Determine the method of tax imposition as prescribed in Article 34 of Decree No. 83/2013/NĐ-CP and:

c.2.1) In case of imposition of tax payable:

c.2.1.1) Check, determine the basis for tax calculation (quantities, values, exchange rates, origins, codes, tax rates of goods) in accordance with regulations of law on taxation and relevant laws;

c.2.1.2) Calculate the total amount of tax payable, the difference between the tax payable and the amount declared, paid by the taxpayer (if any);

c.2.1.3) Issue a decision on tax imposition and a decision on penalties for administrative violations (if any).

c.2.2) In case of imposition of relevant factors:

c.2.2.1) Check, determine the relevant factors in an accurate and legitimate manner;

c.2.2.2) Determine the time of tax calculation and/or basis for tax calculation (quantities, values, tax rates, etc.) according to the relevant factors imposed, regulations of law on taxation, and relevant laws. If the time of tax calculation and/or basis for tax calculation cannot be determined and/or the basis for calculation of taxes on the same type of goods on various customs

declarations that are repurposed, the imposed tax shall be the average tax according to applicable regulations of law on the registration date of the customs declaration;

c.2.2.3) Calculate the total amount of tax payable, the difference between the tax payable and the amount declared, paid by the taxpayer (if any); determine late payment interest as prescribed in Article 133 of this Circular;

c.2.2.4) Issue a decision on tax imposition and a decision on penalties for administrative violations (if any).

7. Responsibilities of the customs authority

a) The customs authority shall issue the decision on tax imposition (form No. 09/QĐAĐT/TXNK in Appendix VI enclosed herewith) when imposing tax and send it to the taxpayer within 08 working hours since the decision is signed;

b) If the tax imposed by the customs authority is higher than the amount payable, the excess must be refunded by the customs authority;

c) The customs authority has good reasons to determine that the decision on tax imposition is incorrect, a decision on cancellation of tax imposition shall be issued (form No. 10/HQĐAĐT/TXNK in Appendix VI enclosed herewith).

8. Responsibilities of the taxpayer

a) The taxpayer must fully pay tax arrears to the customs authority as imposed in accordance with Article 107, Article 108, and Article 110 of the Law on Tax administration, which is amended in Clause 33, Clause 34, and Clause 35 Article 1 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration.

The taxpayer shall incur penalties if committing violations against tax laws. The time limit for imposing penalties for violations against tax laws is specified in Article 110 of the Law on Tax administration, which is amended in Clause 35 Article 1 of the Law No. 21/2012/QH13 on the amendments to the Law on Tax administration and the Government's regulations on penalties for administrative violations and enforcement of administrative decisions in the customs sector;

b) If the decision on tax imposition issued by the customs authority is not concurred with, the taxpayer still has to pay such tax and shall request the customs authority to provide explanation, file a complaint or lawsuit against the tax imposition in accordance with regulations of law on complaints and lawsuits.

Article 49. Settlement of overpaid tax, late payment interest, and fines

1. Tax, late payment interest, and fines are considered overpaid in the following cases:

a) If the amount of tax, late payment interest, fines paid by the taxpayer is higher than the amount payable (including VAT on imported goods that have been re-exported to the foreign goods owner, re-exported to a third country or to a free trade zone; goods that have been exported but then imported back into Vietnam; goods imported for manufacturing of goods for export on which VAT has been paid and then exported) within 10 years from the day on which such amount is paid to state budget, the overpaid amount shall be offset against the outstanding amount (taxes may be offset against each other) or offset against the amount payable next time; the overpaid amount shall be refunded if the taxpayer no longer owes tax, late payment interest, or fine, unless the taxpayer is not exempt from penalties because the decision on penalties for tax offenses issued by a tax authority or a competent authority prescribed in Clause 2 Article 111 of the Law on Tax administration has been implemented;

b) The taxpayer has a refundable tax according to regulations of law on export tax, import tax, special excise tax, VAT, environmental protection tax, safeguard tax, anti-dumping tax, and countervailing tax.

2. Documents and procedures for settlement of refundable tax mentioned in Point b Clause 1 of this Article shall comply with instructions in Section 4 Chapter VI of this Circular.

3. Overpaid tax, late payment interest, and fines mentioned in Point a Clause 1 of this Article shall be settled as follows:

a) Documents include:

a.1) 01 original copy of the written request for settlement of overpaid tax, late payment interest, and fines, specifying: numbers of tax payment receipts, amount of late payment interest, amount of tax, late payment interest, and fines that have been paid, the amount of tax, late payment interest, and fines payable, the overpaid amount; reasons for overpayment, and suggested solution;

a.2) 01 photocopy of any document proving the overpayment of tax, late payment interest, or fine (unless such document is enclosed with the customs dossier, which is already submitted when registering the customs declaration);

a.3) 01 photocopy of the fine payment receipt.

b) The customs authority that collects the overpaid amount shall receive, examine documents submitted by the taxpayer, compare them to the original customs dossier, inspect the accuracy and legitimacy of the documents, and take appropriate actions as follows:

b.1) If it is determined that the amount of paid tax, late payment interest, or fine is actually higher than the amount payable, and the taxpayer's declaration is accurate, the customs authority shall issue a decision to refund the overpaid tax, late payment interest, or fine (form No. 11/QĐHT/TXNK in Appendix VI enclosed herewith);

b.2) If it is determined that the amount of paid tax, late payment interest, or fine is actually higher than the amount payable, but the taxpayer's declaration is not accurate, the customs authority shall send a written notification to the taxpayer and refund the correct overpaid amount as prescribed;

b.3) If it is determined that the amount of paid tax, late payment interest, or fine is not higher than the amount payable, the customs authority shall send a written notification, which provides specific explanation, to the taxpayer.

c) The customs authority shall process documents mentioned in Point b of this Clause within 05 working days from the day on which sufficient docs are received;

d) According to the decision on refund, the customs authority that collects the overpaid amount shall settle it and update information about the overpaid amount on the System.

4. The customs authority that collects overpaid tax, late payment interest, fine has the power to decide refund of overpaid tax, late payment interest, fine to the taxpayer.

5. Overpaid VAT shall be settled together with refund of import tax (if any) in accordance with instructions in Article 132 of this Circular.

Section 6. Customs procedures; customs supervision and inspection of goods under customs supervision and other exported or imported goods.

Article 50. Transport of goods under customs supervision

1. Goods are under customs supervision in the following cases:

a) Goods are transited through the territorial mainland of Vietnam;

b) Goods are moved to another custom post outside the checkpoint area or vice versa, including:

b.1) Goods on a customs declaration registered at a Sub-department of Customs outside the checkpoint area that are transported from the customs place outside the checkpoint area to the checkpoint of export, a bonded warehouse, CFS, ICD;

b.2) Goods on a customs declaration registered at a Sub-department of Customs outside the checkpoint area that are transported from the checkpoint of import to a customs place outside the checkpoint area or a free trade zone;

b.3) Exported goods that are transported from an ICD, a bonded warehouse, container freight station (CFS), or air logistics services (ALS) to the checkpoint of export;

b.4) Imported goods that are transported from the checkpoint of import to the port of destination written on the bill of lading, ALS, CFS, or another checkpoint;

b.5) Imported goods that are transported from the checkpoint of import to a bonded warehouse;

b.6) Goods that are transported from a free trade zone to a checkpoint of export or bonded warehouse, CFS, ICD; a customs place outside checkpoint area, or another free trade zone;

b.7) Exported or imported goods that are transport from one customs place to another.

2. The declarant is responsible for protecting the status quo of goods and the customs seal, unless goods cannot be sealed by nature while goods are being transported to the destination; sticking to the transport route and time registered with the customs authority.

If the status quo of goods or the customs seal cannot be protected, or it is not possible to stick to the registered route or time because of a force majeure event, the declarant, after taking necessary measures for minimizing and preventing damage, must promptly notify the nearest customs authority and the customs authority to which goods is transported until goods arrive at the registered destination. If it is not possible to promptly notify the customs authority, the taxpayer may inform the local police authority, the border guard, or the coastguard for confirmation.

Article 51. Customs procedures applied to goods under customs supervision

1. Customs procedures applied to goods transported independently:

a) Procedures customs for independent transport shall be applied to goods transited through Vietnam's territorial mainland and the goods mentioned in Point b.3 and Point b.4 Clause 1 Article 50 of this Circular, and shall be carried out at the Sub-department of Customs from which goods are transported;

b) Customs dossier:

b.1) A declaration of independent transport which contains the information mentioned in Section 6 of Appendix II enclosed herewith;

b.2) 01 photocopy of the bill of lading, unless goods are transported by road across the border without a bill of lading;

b.3) A photocopy of the license for transit if such license is required.

With regard to the documents mentioned in Point b.3 of this Clause, if the single-window system is applied, the regulatory body shall send the license for transit in the digital form through the integrated communication system. In this case, the declarant is not required to submit the original license when following customs procedures.

In case goods are transported from a bonded warehouse, CFS, or ICD to a checkpoint of export, the documents mentioned in Point b.2 and Point b.3 of this Clause are not required.

c) Procedures:

c.1) Responsibilities of the declarant:

Complete the declaration of goods transport in accordance with Section 6 in Appendix II enclosed herewith; receive information from the System and follow the instructions below:

c.1.1) If the declaration is sorted into channel 1 and approved by the System, the declarant shall print the notice of approval and present it to the customs authority from which goods are transported (hereinafter referred to as “dispatching customs authority”) in order to seal and certify the goods being transported;

c.1.2) If the declaration is sorted into channel 2, the declarant shall present the documents prescribed in Point b of this Clause to the dispatching customs authority for inspection, provide additional information about the customs seal number notified by the customs authority, and present goods for the customs authority to seal and certify;

c.1.3) If the shipment is suspected of violations of law, the declarant shall present the goods to the dispatching customs authority for physical inspection;

c.1.4) Additional declaration of transport shall be made at the request of the customs authority.

c.2) Responsibility of the warehouse/depot operator

If the warehouse/depot operator is connected to the customs authority for exchange of electronic customs data, the warehouse/depot operator shall update information about departure of exported goods or confirm arrival of imported goods on the System;

c.3) Responsibilities of the dispatching customs authority:

c.3.1) Examine the documents if required by the System and instruct the declarant to provide additional information about the customs seal number and other information on the declaration of goods transport (if any).

Physical inspection shall be carried out as prescribed in Article 29 of this Circular if violations of law is suspected. The result of physical inspection shall be written on the inspection result sheet (form No. 06/PGKQKT/GSQL in Appendix V enclosed herewith) and sent to the Sub-department of Customs to which goods are transported (hereinafter referred to as “receiving customs authority”) where procedures are carried on.

c.3.2) Approve the declaration of goods transport on the System;

c.1.2) Seal the goods according to additional information provided by the declarant about the customs seal number ;

c.3.4) Update information about the dispatched goods on the System if the warehouse/depot operator is connected to the customs authority for exchange of electronic customs data;

c.3.5) Monitor the transport of goods under customs supervision;

c.3.6) Carry out search for the shipment if no feedbacks from the receiving customs authority are received after the expected transport period.

c.4) Responsibilities of the receiving customs authority:

c.4.1) Check and compare the customs seal (if any);

c.4.2) Update information about the arrival of goods on the System if the warehouse/depot operator is connected to the customs authority for exchange of electronic customs data;

c.4.3) Physical inspection shall be carried out as prescribed in Article 29 of this Circular if violations of law are suspected. The result of physical inspection shall be written on the inspection result sheet (form No. 06/PGKQKT/GSQL in Appendix V enclosed herewith).

d) Additional declaration, cancellation of declaration of independent transport:

d.1) Additional declaration or cancellation of the declaration of goods transport shall be made before information about arrival of goods at the destination is update on the System;

d.2) The declarant may make additional declaration and cancel information about the transport found by the declarant or according to instructions sent by the customs authority via the System;

d.3) The Director of the receiving customs authority shall decide additional declaration or cancellation of the transport declaration.

2. Customs procedures applied to transport of mixed goods:

a) Procedures customs for transport of mixed goods shall be applied to goods mentioned in Points b.1, b.2, b.5, b.6 Clause 1 Article 50 of this Circular;

b) Documents and customs procedures for transport of mixed goods shall be followed concurrently with customs procedures for exported or imported goods in a corresponding manner; information about transport of mixed goods shall be provided in accordance with Appendix II enclosed herewith. If the System does not support declaration of information about transport of mixed goods, the declarant shall request a transport of goods under customs supervision on the declaration (with specific time, route, source, and destination). The declarant shall present goods for the customs authority to seal them in the cases mentioned in Clause 3 Article 52 of this Circular in order for the receiving customs authority to carry on the procedures;

c) With regard to exported goods

c.1) With regard to exported goods that have undergone physical inspection at the Sub-department of Customs where the customs declaration is registered and have to be sealed by the customs

c.1.1) Responsibilities of the dispatching customs authority:

c.1.1.1) Seal the goods, update information about transfer of goods under supervision on the System.

If goods are bulk cargo, oversized/overweight goods that cannot be sealed, the customs official shall specify the names, quantities, categories, codes, origins (if any) of goods, or take pictures of goods, and update them on the System or enclosed them with the transfer note;

c.1.1.2) Give goods to the declarant for transport to the checkpoint of export;

c.1.1.3) Monitor the transport of goods under customs supervision;

c.1.1.4) Carry out search for the shipment if goods do not arrive at the checkpoint of export after the expected transport period.

c.1.2) Responsibilities of the receiving customs authority:

c.1.2.1) Receive goods presented by the declarant;

c.1.2.2) Check the customs seal and compare with information about the dispatch of goods on the System;

c.1.2.3) Update information about the arrival of goods on the System;

c.1.2.4) Cooperate with the dispatching customs authority in tracking down the goods if they do not arrive at the destination after the expected transport period.

c.2) With regard to exported goods exempt from customs sealing:

The declarant is responsible for transporting goods to the checkpoint of export.

d) With regard to imported goods:

d.1) With regard to imported goods being inspected outside the checkpoint area and goods that must be sealed by the customs:

d.1.1) Responsibilities of the Sub-department of Customs where the customs declaration is registered:

d.1.1.1) Update information on the System for the Sub-department of Customs where goods are stored to seal and transfer goods to the declarant for transport to the inspection place;

d.1.1.2) Receive goods transported by the declarant, check the customs seal and compare with information about dispatch of goods on the System;

d.1.1.3) Update information about the arrival of goods on the System;

d.1.1.4) Monitor information about transported goods; cooperate with the Sub-department of Customs where goods are stored in tracking down the goods if they do not arrive at the inspection place after the expected transport period.

d.1.2) Responsibilities of the Sub-department of Customs where goods are stored:

d.1.2.1) Seal the goods, update information about dispatch of goods on the System, and give goods to the declarant for transporting to the inspection place;

d.1.2.2) Monitor information about transported goods; take charge of tracking down the goods if they do not arrive at the inspection place after the expected transport period.

d.2) With regard to imported goods exempt from customs sealing:

The declarant shall follow customs procedures as prescribed and take goods through the customs controlled area at the checkpoint after a permission is granted by the customs authority.

e) Additional declaration, cancellation of the declaration of transport of mixed goods are similar to those of declaration of exported goods and declaration of imported goods prescribed in this Circular.

3. With regard to goods mentioned in Clause 1, Point c.1 and Point d.2 Clause 2 of this Article, if the dispatching customs authority and the receiving customs authority has not exchanged information about the transport of goods via the System or the System is not working as prescribed in Clause 2 Article 25 of Decree No. 08/2015/NĐ-CP and thus declaration of transport of goods under customs supervision cannot be made via the System, the dispatching customs authority shall use the form No. 10/BBBG/GSQL in Appendix V enclosed herewith) to transfer goods to the receiving customs authority for carrying on the procedures. After receiving the transfer note and goods, the receiving customs authority shall confirm and notify the dispatching customs authority.

4. The General Department of Customs shall provide instructions on declaration of transport of goods under customs supervision in the cases mentioned in Point b.7 Clause 1 Article 50 of this Circular.

Article 52. Customs supervision of exported or imported goods

1. With regard to exported goods:

a) Responsibilities of the declarant or carrier:

a.1) With regard to exported goods that are exempt from physical inspection and released or granted customs clearance, goods approved for independent transport, after goods are gathered inside the customs controlled area, the declarant or carrier shall provide information about the container list and declaration number using form No. 29/DSCT/GSQL in Appendix V (if goods are transported in containers) or list of goods using form No. 30/DSHH/GSQL in Appendix V (for other goods) or the notice of approved transport declaration for the port/warehouse/depot operator (in the seaport, airport, ALS) or for the customs authority of the checkpoint by road, river, inland waterways, or international railway station;

The declarant shall print the list of containers, list of goods from www.customs.gov.vn or on the declaration system of the declarant. If the list of containers or list of goods is changed after goods have entered the customs controlled area, the declarant shall print or request a customs official at the Sub-department of Customs at the checkpoint to print the list of containers, list of goods from the System.

In case of paper-based customs declaration, the declarant shall present the declaration, on which customs clearance or release of goods is certified by the Sub-department of Customs where the customs declaration is registered.

a.2) With regard to exported goods subject to physical inspection that have been released or granted customs clearance at the Sub-department of Customs outside the checkpoint area, the declarant is responsible for protecting the status quo of goods and the customs seal throughout the transportation. After the customs authority checks and certifies, the declarant shall perform the tasks prescribed in Point a.1 of this Clause;

a.3) With regard to exported goods of which physical inspection is carried out by the Sub-department of Customs at the checkpoint, the declarant shall follow Point a.1 of this Clause as soon as goods are released or granted customs clearance;

a.4) If the port/warehouse/depot operator does not have an IT system that meet standards for management, supervision of exported or imported goods moved in or out of the port or depot area, the declarant or carrier shall provide information about the number of declaration, list of containers, and list of goods for the customs authority;

a.5) If the declaration of exported goods has been released or granted customs clearance, goods have been moved into customs controlled area at the checkpoint of export, but the carrier is only able to load part of the shipment onto the means of transport, and the remaining amount is loaded onto another means of transport, then the carrier shall send a written request to the Sub-department of Customs where goods are stored for continued monitoring the remaining goods until all of them Article exported.

b) Responsibilities of the port/warehouse/depot operator at seaports, international airports, ALS:

b.1) According to the list of numbers of declarations, list of containers and list of goods provided by the declarant or the carrier, the port/warehouse/depot operator shall check the list of container,

list of goods, and compare information about the customs declaration on the System to decide the loading of goods granted customs clearance onto the means of transport;

b.2) After goods are moved into the port or depot area for loading onto the means of transport, the port/warehouse/depot operator shall confirm goods passing through the customs controlled area or update information about arrival of goods on the System of the customs authority;

b.3) If the System is not working, the customs authority must be promptly informed to take appropriate actions in order to avoid congestion of exported goods and departing vehicles.

c) Responsibilities of the customs authority:

c.1) Comply with the regulations in Clause 3 to 34 of Decree No. 08/2015/NĐ-CP;

c.2) With regard to goods exported through a checkpoint by road, river, inland waterway, international railway, and the case mentioned in Point a.4 of this Clause, the Sub-department of Customs at the checkpoint of export shall compare information provided by the declarant or carrier as prescribed in Point a.1 of this Clause with information on the System to supervise exported goods; confirm goods passing through the customs controlled area, or update information about goods on the System.

With regard to goods exported through a checkpoint by road, river, inland waterway, international railway, the confirmation of goods passing through the customs controlled area or update of information about goods on the System shall be made after goods have been transported through the checkpoint of export to the importing country;

With regard to the case mentioned in Point a.4 of this Clause in which goods are exported through a checkpoint by sea, by air, or by ALS, after confirming goods passing through the customs controlled area on the System, the customs official shall make a confirmation on the list of container or list of goods, and give it to the declarant. The declarant shall give it to the port/warehouse/depot operator in order to load exported goods on to the means of transport. In case of declaration of independent transport, according to the notice of approved transport declaration provided by the declarant, the customs official shall confirm goods passing through the customs controlled area on the System, append his/her signature and seal on the first page of the notice, give it to the declarant. The declarant shall give it to the port/warehouse/depot operator in order to load exported goods onto the means of transport;

c.3) With regard to the case mentioned in Point a.5 of this Clause and goods are exported through a checkpoint other than the checkpoint where goods are stored, relevant Sub-departments of Customs shall cooperate in monitoring goods until they are actually exported as prescribed; additional declaration is not required;

c.4) With regard to goods being crude oil exported at offshore extraction sites or in overlapping areas and the goods mentioned in Clause 1 Article 93 of this Circular, the Sub-department of Customs where the customs declaration is registered shall confirm goods passing through

customs controlled area after the customs declaration of exported goods are granted customs clearance (direct supervision is not carried out).

With regard to aviation fuel for departing airplanes, the Sub-department of Customs where the airplane departs shall monitor every time goods are delivered.

2. With regard to imported goods:

a) Responsibilities of the declarant:

a.1) With regard to imported goods that have been released or granted customs clearance or moved to storage or an inspection place, goods approved for independent transport, imported goods eligible for tax exemption or not subject to tax, incurring zero tax, or eligible for 275-day time limit that undergo physical inspection by the Sub-department of Customs at the checkpoint at the request of the Sub-department of Customs where the customs declaration is registered: Information about number of customs declaration, list of containers using form No. 29/DSCT/GSQL in Appendix V (for goods transported in containers) or list of goods using form No. 30/DSHH/GSQL in Appendix V (for other goods) or notice of approved transport declaration shall be provided for the port/warehouse/depot operator at the checkpoint, seaport, international airport, ALS, or the customs authority at the checkpoint (by road, river, inland waterways, or international railway).

The declarant shall print the list of container, list of goods from www.customs.gov.vn or on the declaration system of the declarant. If the list of containers or list of goods is changed when the declarant receives goods at the checkpoint of import, the declarant shall print or request a customs official at the Sub-department of Customs at the checkpoint to print the list of containers or list of goods from the System;

a.2) With regard to imported goods moved outside the port or checkpoint area and have to be sealed by the customs as prescribed in Clause 3 of this Article:

a.2.1) Present the goods for the customs authority to seal;

a.2.2) Transfer the goods to the Sub-department of Customs to which goods are transported to carry on customs procedures as prescribed;

a.2.3) Preserve the status quo of the goods and the customs seal according to applicable regulations.

a.3) If the port/warehouse/depot operator does not have an IT system that meet standards for management, supervision of exported or imported goods moved in or out of the port or depot area, the declarant shall provide information about the number of declaration, list of containers, list of goods for the customs authority.

b) Responsibilities of the port/warehouse/depot operator:

b.1) Check information about the customs declaration on the System according to information provided by the declarant prescribed in Point a.1 of this Clause. Only allow goods to be moved from the customs controlled area when:

b.1.1) The customs authority has granted customs clearance or release of goods, or permitted goods to be taken to inspection place or through the customs controlled area with regard to imported goods eligible for tax exemption or not subject to tax, incurring zero tax, or eligible for 275-day time limit that undergo physical inspection by the Sub-department of Customs at the checkpoint (...) at the request of the Sub-department of Customs where the customs declaration is registered.

b.1.2) The quantity of containers, container numbers or amount of bulk cargo, liquid cargo removed from the customs controlled area that matches information on the customs declaration.

b.2) Notify the Sub-department of Customs at the port or depot or the Sub-department of Customs where the customs declaration is registered if goods are not those mentioned in b.1 of this Clause;

b.3) Certify goods passing through customs controlled area on the System;

b.4) Cooperate with a customs authority in inspecting, supervising goods at the gate of the port and where goods are located outside the customs controlled area.

c) Responsibilities of the customs authority:

c.1) Comply with the regulations in Clause 3 ã 34 of Decree No. 08/2015/NĐ-CP;

c.2) With regard to imported goods being removed from the customs controlled area at a checkpoint by road, river, inland waterway, international railway, and the case mentioned in Point a.3 of this Clause, the Sub-department of Customs at the checkpoint of export shall compare information provided by the declarant or carrier as prescribed in Point a.1 of this Clause with information on the System to supervise imported goods being removed from the customs controlled area; confirm goods passing through the customs controlled area on the System.

In the case mentioned in Point a.3 of this Clause in which goods are imported through a checkpoint by sea, by air, or by ALS, after confirming goods passing through the customs controlled area on the System, the customs official shall make a confirmation on the list of containers or list of goods, and give it to the declarant. The declarant shall give it to the port/warehouse/depot operator in order to allow goods to pass through the customs controlled area. In case of declaration of independent transport, according to the notice of approved transport declaration provided by the declarant, the customs official shall confirm goods passing through the customs controlled area on the System, append his/her signature and seal on the first page of the notice, give it to the declarant. The declarant shall give it to the port/warehouse/depot operator in order to allow goods to pass through the customs controlled area;

c.3) In case of customs sealing prescribed in Clause 3 of this Article:

c.3.1) Check the outer condition of goods, compare numbers of containers and seals of the carrier with information about the customs declaration on the System;

c.3.2) Make and send a transfer note the Sub-department of Customs to which goods are transported for carrying on customs procedures as prescribed;

c.3.3) If goods are bulk cargo, oversized/overweight goods that cannot be sealed, the customs official shall specify the names, quantities, categories, codes, origins (if any) of goods on the transfer note, or take pictures of actual goods and send them together with the transfer note.

d) In case goods are moved out of the customs controlled area without registering the customs declaration:

d.1) If a competent authority (police authority, court, etc.) issues a decision to use goods serving urgent needs, goods serving national defense and security, the Sub-department of Customs at the checkpoint shall supervise goods being moved out of the customs controlled area according to relevant documents issued by the competent authority;

d.2) Transited goods: the customs official shall issue a Notice of transited goods (form No. 21/BKTrC/GSQL in Appendix V enclosed herewith) to supervise goods being moved out of the customs controlled area;

d.3) Imported goods that have been moved into the customs controlled area and must be re-exported such as wrong goods, lost goods, imported refused goods by the goods owner:

d.3.1) The deliverer of goods owners shall send a written request for re-export to the Sub-department of Customs at the checkpoint where goods are stored specifying the reasons. The request must contain the number of the bill of lading, intended export time, checkpoint of export, means of transport, etc.

d.3.2) according to the written request made by the deliverer or goods owners, the Sub-department of Customs where goods are stored shall:

d.3.2.1) Receive the shipment documents;

d.3.2.2) Carry out a physical inspection if customs offenses are suspected.

If the inspection result shows that goods are consistent with the bill of lading, the customs authority shall consider permitting the re-export of the shipment. If the inspection result reveals that goods are not consistent with the bill of lading or there is information about violations, appropriate actions shall be taken.

3. Customs sealing:

a) Cases of customs sealing:

a.1) Goods are transited through Vietnam's territory, except for the case in Point b.1 of this Clause;

a.2) Exported goods subject to physical inspection are transported from a customs place outside the checkpoint area, an inland goods inspection place, or ALS to the checkpoint of export, bonded warehouse, CFS, ICD;

a.3) Imported goods are transported from the checkpoint of import to a customs place outside the checkpoint area or an inland goods inspection place for physical inspection;

a.4) Imported goods that arrive at the checkpoint of import are transported by the deliverer to the port of destination written on the bill of lading or ALS, except for the case in Point b.2 of this Clause;

a.5) Goods from abroad are transported from the checkpoint of import to a bonded warehouse, free trade zone in a checkpoint economic zone, CFA warehouse, tax-free shop, and vice versa;

a.6) Point d Clause 1 Article 83 of this Circular shall apply to temporary import of goods for re-export.

If customs sealing is mandatory, the declarant shall present goods to the customs authority in charge of the storage so that goods are sealed before passing through customs controlled area.

b) Cases in which customs sealing is not required:

b.1) Goods are transited through Vietnam's territory without changing the means of transport by sea, by air, by river from the first checkpoint of import to the checkpoint of export;

b.2) Imported goods that arrive at the checkpoint of import at a seaport, river port, airport are transported by the deliverer to the port of destination written on the bill of lading using another means of transport of the same modal or without changing the means of transport from the checkpoint of import to the port of destination;

b.3) Various exported or imported goods are transported together and exempt from physical inspection when following customs procedures;

b.4) Goods are bulk cargo, oversize/overweight load that cannot be sealed.

4. Suspension of goods passing through customs controlled area

a) During the process of customs control and patrol, if customs offenses are suspected, the Director of Sub-department of Customs where the customs declaration is registered or where goods are stored shall issue a decision to suspend goods from passing through the customs controlled area (form No. 11/QĐTDGS/GSQL in Appendix V enclosed herewith), assign personnel to inspect, supervise, and control goods locally, and inform relevant units for cooperation;

b) Inspection shall be carried out according to the information on the decision to suspend goods from passing through customs controlled area in the presence of relevant units;

c) A record shall be made when the inspection is done; any customs offenses found shall be dealt with as prescribed by law. The result must be notified to relevant units.

5. Customs supervision of exported goods of which the port of loading, checkpoint of export, or means of transport is changed:

a) If goods have entered the customs controlled area:

According to the declarant's notification, the Sub-department of Customs where goods are stored shall make and send a transfer note to the Sub-department of Customs of the checkpoint of export to supervise exported goods;

b) If goods have not entered the customs controlled area:

The Sub-department of Customs of the checkpoint of export shall follow Clause 1 of this Article;

c) Additional declaration of exported goods of which the port of loading, checkpoint of export, or means of transport is changed shall comply with Clause 3 Article 20 of this Circular.

6. In case goods have been moved into the customs controlled area but the declarant requests cancellation of the declaration as prescribed in Article 22 of this Circular and bring them back to inland:

According to the declarant's request for removing goods from the customs controlled area and information about cancellation of the declaration of exported goods on the System (or a written confirmation of the cancellation made by the Sub-department of Customs where the customs declaration is registered in case of paper-based customs declaration), the Sub-department of Customs where goods are stored pending export shall supervise goods being moved from the storage.

7. In case goods have been moved into the customs controlled area but the declarant wishes to bring them back to inland for repair, recycle, or suspend the export and does not cancel the customs declaration:

a) The declarant shall:

a.1) Send a document to the Sub-department of Customs where the customs declaration is registered specifying the (specifying the declaration number, container numbers, goods storage location, whether procedures for tax refund or tax cancellation are completed, and the reasons for bringing goods back to inland, and intended time of export);

a.2) Return the tax refund to the customs authority or the inland tax authority if tax on exported goods that were imported previously or exported goods manufactured in Vietnam has been refunded.

b) The Sub-department of Customs where the customs declaration is registered shall:

b.1) Notify the Sub-department of Customs where goods are stored of the goods being brought back to domestic market for recycling, repair or suspended from export. If goods are brought back to inland for repair or recycling, the time limit for repair or recycling shall not exceed 30 days from the day on which goods are removed from the customs controlled area;

b.2) Receive goods, break the seal for the declarant to carry out repair or recycling, and update information on the System.

When the repair or recycling is completed as notified by the declarant, the Sub-department of Customs where the customs declaration is registered shall carry out a physical inspection, seal the goods, update information about the dispatch of goods on the System, and transfer goods to the declarant for transport to the checkpoint of export;

b.3) In case of suspension from export: The declaration shall be cancelled in accordance with Article 22 of this Circular;

b.4) The Sub-department of Customs where goods are stored shall be requested to move goods from the customs controlled area.

c) The Sub-department of Customs where goods are stored shall supervise goods being removed from the customs controlled area, seal and transfer goods to the Sub-department of Customs where the customs declaration is registered;

d) If the Sub-department of Customs where the customs declaration is registered and the Sub-department of Customs where goods are stored have not exchanged information about goods via the System, the transfer note form No. 10/BBBG/GSQL in Appendix V enclosed herewith shall be used to transfer goods. After receiving the transfer note and the goods, the Sub-department of Customs shall confirm, respond, and enclose it with the customs dossier.

8. When goods are removed from the customs controlled area, if the customs authority finds that the container numbers do not match the declaration, the customs authority shall request the declarant to present delivery documents provided by the carrier in order to compare information about the consignee's name, number of the bill of lading, name of the means of transport, container numbers, quantity of packages on the delivery documents with the customs declaration on the System. If information is consistent, the customs official shall update the container numbers on the System and allow goods to be removed from the customs controlled area. If information is not consistent or violations of law are suspected, the customs official shall request the Director of the Sub-department of Customs where goods are stored to cooperate with the Sub-department of Customs where the customs declaration is registered to carry out an inspection and take appropriate actions.

Article 53. Basis for determination of exported goods

1. If goods are exported by sea, air, railway, inland waterways, transshipment port, transshipment area; goods supplied for seagoing vessels, departing airplanes; exported goods transported together with the carrier through air checkpoint; exported goods sent to bonded warehouses; exported goods sent to CFS warehouse, the basis for determination of exported goods is the declaration of exported goods granted customs clearance certified that goods have passed through the customs controlled area on the System.

2. With regard to goods exported through a checkpoint by road or by river, the basis is the declaration of exported goods that have been granted customs clearance and certified by a customs official that goods have passed through the customs controlled area on the System when goods are transported across the border to the importing country.

3. With regard to indirect export (indirect export means a situation in which goods are manufactured by a local manufacturer in Vietnam under a contract with a foreign partner and then delivered to a local importer in Vietnam for further processing at the request of the foreign party), goods sold from the domestic market into a free trade zone, a border economic zone, a export-processing zone, or an EPE, the basis is the declaration of exported goods or imported goods that have been granted customs clearance.

4. In case of paper-based customs declaration:

a) With regard to goods mentioned in Clause 1 and Clause 2 of this Article, the basis is the declaration of exported goods that have been granted customs clearance and certified by a customs official of the checkpoint of export that goods have passed through the customs controlled area on. The declaration must contain the date, the official's signature and seal). With regard to goods exported through a checkpoint by road or by river, the basis is the declaration of exported goods that have been granted customs clearance and certified that goods have been exported in reality;

b) With regard to goods mentioned in Clause 3 of this Article, the basis is the declaration of exported goods that have been granted customs clearance.

Chapter III

CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION OF GOODS PROCESSED UNDER CONTRACTS WITH FOREIGN TRADERS, MATERIALS AND SUPPLIES IMPORTED FOR MANUFACTURING OF PRODUCTS FOR EXPORT; EXPORTED OR IMPORTED GOODS OF CONTRACT MANUFACTURERS

Section 1. General provisions

Article 54. Imported materials/supplies

Materials/supplies imported for inward processing or manufacturing of goods for export include:

1. Materials, semi-finished products, components, knock-down kits directly used for inward processing operations or manufacturing operations and are part of the goods to be exported.
2. Materials/supplies that are directly used for inward processing or manufacturing operations but are not transformed into the products of part of the products.
3. Imported finished products attached to exported products, packed together with exported products that are made of imported materials/supplies, or packed together with products that are made of materials/supplies bought inland or self-supplied by the exporter to create full packs to be exported.
4. Packages or supplies used as packages of exported products.
5. Materials/supplies imported for repair, recycling of exported products.
6. Samples imported for inward processing or manufacturing of goods for export.

Article 55. Practical norms for inward processing, manufacturing of goods for export

1. Practical norms for inward processing, manufacturing of goods for export include:

- a) Material consumption means the practical amount of materials necessary for manufacturing a unit of product;
- b) Supplies consumption norm means the practical amount of supplies necessary for manufacturing a unit of product;
- c) Rate of loss means ratio of loss of materials or supplies, including natural loss, loss due to formation of waste, rejects to the manufacturing norm or material/supplies consumption norm. If the amount of waste or rejects is already included in the material or supplies consumption norm, it shall not be included in the rate of loss.

The material/supplies consumption norm and rate of loss shall be kept by the enterprise and presented when customs authority carries out an inspection or request explanation for the calculation of the materials consumption norm, supplies consumption norm, and rate of loss.

2. Rate of derivation of materials from preliminary material means the amount of a material used for manufacturing of goods for export that is derived from a preliminary material.
3. Before manufacturing, the taxpayer must estimate the consumption norms and rates of loss of every product code. If changes are made during the manufacturing process, such norms and rates must be adjusted and documents about such changes must be retained.

4. The legal representative of the taxpayer is responsible for the accuracy of the consumption norms and rates of loss applied, and apply such norms and rates for purposes of inward processing or manufacturing of goods for export only. Every violation shall be dealt with in accordance with law.

5. The taxpayer shall determine the amount of refundable tax or exempt tax pursuant to regulations of this Circular and according to the practical norms of consumption of imported materials and supplies serving manufacturing of goods for export.

Article 56. Notification of processing/manufacturing facilities, locations where materials/supplies, machinery, equipment, and products to be exported are stored

1. Responsibilities of the trader:

a) Inform the Sub-department of Customs where import procedures are to be carried out of the facility where exported goods are processed/manufactured (hereinafter referred to as “processing/manufacturing facility”) as prescribed in Article 58 of this Circular (hereinafter referred to as “supervisory Sub-department of Customs”) via the System using form No. 12/TB-CSSX/GSQL in Appendix V enclosed herewith. EPEs are not required to make such notification.

If there is a request for tax refund as prescribed in Point c.2 and Point c.5 Clause 5 Article 114 of this Circular, the manufacturer of goods to be exported must notify the manufacturing facility before submitting the application for tax refund and the statement as prescribed in this Circular;

b) If materials/supplies, exported goods have to be stored outside the said manufacturing facility, the storage location must be notified to the supervisory Sub-department of Customs (form No. 12/TB-CSSX/GSQL in Appendix V enclosed herewith);

c) Take legal responsibility for info provided in the notification of the processing/manufacturing facility, or the location where materials/supplies, machinery, equipment, or exported products are stored (hereinafter referred to as “storage location”);

d) Adjust information on the System according to responses of the customs authority.

2. Responsibilities of the customs authority:

a) Receive notification of the processing/manufacturing facility and the storage location;

b) Check the information within 02 working hours from the receipt of the notification; post the necessary adjustments on the System if the information provided is not sufficient.

c) Carry out an inspection at the processing/manufacturing facility if required in accordance with Article 39 of Decree No. 08/2015/NĐ-CP and Article 57 of this Circular;

d) Carry out an inspection at the storage location outside the manufacturing facility if it is suspected that the materials/supplies and exported products are not stored at the location notified to the customs authority.

Article 57 Inspection at the processing/manufacturing facility, inspection of processing/manufacturing capacity

1. Cases of inspection at the processing/manufacturing facility, inspection of processing/manufacturing capacity:

a) The entity executes the first processing contract;

The entity is permitted to apply the 275-day period for the first time to goods imported for manufacturing of goods for export;

c) The cases in Point b Clause 1 Article 39 of Decree No. 08/2015/NĐ-CP.

2. Inspection procedures

a) The inspection decision form No. 13/KTCSSX/GSQL in Appendix V enclosed herewith shall be sent directly, by registered mail, or fax to the declarant within 03 working days from the day on which it is signed and at least 05 working days before the inspection date;

b) The inspection shall be carried out after 05 working days from the issuance date of the inspection decision. The inspection duration shall not exceed 05 working days.

3. Inspection contents

a) Check the address of the processing/manufacturing facility on written on the notification or on the Certificate of Business Registration;

b) Inspect the workshops, machinery and equipment:

b.1) Examine documents proving the legal right to use the workshops, premises, storage of materials/supplies, machinery and equipment;

b.2) Inspect the right to ownership of or right to use machinery and equipment, the quantity of machinery and equipment, manufacturing lines at the processing/manufacturing facility; inspect the condition, capacity of machinery and equipment.

During the inspection, the customs authority shall examine declaration of imported goods (in case of import) invoices, receipts for purchase of machinery and equipment, or compare with the accounting records (in case of domestic purchase); finance lease contract (in case of finance lease); asset, workshop lease contracts (in case of lease). The effective period of the finance lease contract, asset/workshop lease contract must not be equal to or longer than the export contract;

c) Inspect the personnel participating in the manufacturing line according to the employment contracts or the payroll;

d) Inspect the accounting records or software program for management of inventory of goods, materials/supplies, machinery, and equipment.

4. Inspection record:

At the end of the inspection, the customs official shall make an inspection record (form No. 14/BBKT-CSSX/GSQL in Appendix V enclosed herewith). The record shall contain the inspection result which truthfully reflects the reality and specify that:

a) Whether the inspected entity has the lawful right to use the premises;

b) Whether the inspected entity has the lawful right to own or use machinery, equipment and manufacturing lines at the facility, whether they are suitable for the materials/supplies imported for inward processing or manufacturing of goods for export (if such machinery, equipment, manufacturing lines are invested by the entity);

c) The quantity of machinery, equipment, and workers.

The inspection record must bear signatures of the inspecting official and the legal representative of the inspected entity.

5. The inspection result shall be handled in accordance with Clause 3 Article 39 of Decree No. 08/2015/NĐ-CP and updated on the System.

Article 58. Customs places

1. Customs places for import:

a) With regard to materials/supplies, machinery, and equipment imported for inward processing; materials and supplies imported for manufacturing of goods for export, the importer may choose to follow import procedures at one of the following Sub-departments of Customs:

a.1) The Sub-department of Customs in the same district with the importer's headquarter, branch, or manufacturing facility;

a.2) The Sub-department of Customs at the checkpoint or the Sub-department of Customs at the ICD;

a.3) The Sub-department of Customs in charge of goods processed and manufactured for export affiliated to the Customs Departments in the same province with the manufacturing facility or the checkpoint of import.

b) With regard to EPEs:

b.1) Imported goods of EPEs; machinery and equipment temporarily imported to serve manufacturing, construction of workshops (even if they are directly imported by the contractor); goods under warranty or repair shall follow customs procedures at the supervisory Sub-departments of Customs of the EPEs;

b.2) In case an EPE exercises its rights to import goods as prescribed in Decree No. 23/2007/NĐ-CP and other regulations of the Ministry of Industry and Trade, the customs declaration shall be registered at the location prescribed in Article 22 of the Law on Customs, Article 4 of Decree No. 08/2015/NĐ-CP, and Clause 1 Article 19 of this Circular.

2. Customs places for export:

a) With regard to processed/manufactured goods to be exported, the exporter may choose to follow import procedures at the most convenient Sub-departments of Customs;

b) With regard to EPEs:

b.1) Exported goods of EPEs; machinery and equipment re-exported after being temporarily imported to serve manufacturing, construction of workshops (even if they are directly imported by the contractor) shall follow customs procedures at the most convenient Sub-department of Customs of the EPEs;

b.2) In case an EPE exercises its rights to export goods as prescribed in Decree No. 23/2007/NĐ-CP and other regulations of the Ministry of Industry and Trade, the customs declaration shall be registered at the location prescribed in Article 22 of the Law on Customs, Article 4 of Decree No. 08/2015/NĐ-CP, and Clause 1 Article 19 of this Circular.

Article 59. Inspection of the use and inventory of materials/supplies, machinery, equipment, and exported goods

1. Cases of inspection

a) A high-risk entity has imported materials, machinery and equipment that has not had exported products after the manufacturing cycle;

b) There is an unusual increase or decrease in import of materials/supplies, machinery, equipment or export of products by an entity compared to such entity's manufacturing capacity;

c) An entity is suspected of selling materials/supplies, machinery, equipment or products to the domestic market without making customs declaration;

d) An entity is found declaring exported products inaccurately and against the regulations.

2. Inspection contents

a) Inspect the customs dossier, application for tax refund or tax cancellation, statement, accounting records, accounting books, logbooks of materials/supplies, machinery, and equipment, and other documents that must be retained by the declarant as prescribed in Clause 5 Article 3 of this Circular;

b) Inspect the norm of exported products and documents related to the establishment of such norms

c) Inspect the correspondence of exported products and imported materials/supplies;

d) If the customs authority is not able to give a conclusion after performing the inspection tasks mentioned in Point a, Point b, and Point c of this Clause, the customs authority shall:

d.1) Inspect materials/supplies, machinery, and equipment on the manufacturing line;

d.2) Inspect the inventory;

d.3) Inspect the quantity of finished products that are yet to be exported.

3. Entitlements to inspection

The Director of the Customs Department shall issue the decision on inspection. The Director of Sub-department of Customs shall organize the inspection.

4. Inspection time

The site inspection shall not last longer than 05 working days. In complicated cases, the duration may be extended up to 05 more working days.

5. Inspection procedures

a) Inspection of the use of materials/supplies, or inventory at the declarant's premises shall be carried out in accordance with the decision of Director of Customs Department; the supervisory Sub-department of Customs shall notify the declarant within 03 working days from the day on which the decision is signed and carry out the inspection within 05 days from the day on which the decision is sent;

b) If the declarant has multiple manufacturing facilities or subcontracts processing to one or some manufacturers (subcontractors), the site-inspection shall be carried out at each and every of them to determine the quantity of goods in the inventory;

c) The inspection must be carried out properly and on schedule without affecting the declarant's business operation;

d) The inspection shall be recorded in writing by the representatives of the declarant and the inspectorate.

6. Time limit for giving inspection result

- a) Within 05 working days from the end of the site inspection, the Sub-department of Customs shall send a draft conclusion to the declarant (by fax or registered mail);
- b) Within 05 working days from the receipt of the draft conclusion, the declarant must provide explanation in writing;
- c) If the declarant fails to provide explanation within 05 working days from the deadline or the customs authority accepts the explanation, the Director of the Customs Department shall issue the official conclusion;
- d) If the basis for giving conclusion is not sufficient, the Director of Customs Department may consult with a competent authority. Within 15 days from the receipt of opinions from the competent agency, the Director of Customs Department shall issue the official conclusion.

7. Handling inspection result

- a) If the inspection result shows that the use of imported materials/supplies, machinery, and equipment corresponds with manufactured goods to be exported, matches the notification of manufacturing facility and capacity; information, documents, and quantity of goods in inventory (in storage, on the manufacturing lines, semi-finished products, incomplete products, etc.) are consistent with accounting records, documents about exported or imported goods, the figures provided shall be accept, a conclusion shall be given, and the inspection result shall be updated on the System;
- b) If the inspection result reveals that the use of imported materials/supplies, machinery, and equipment does not correspond with manufactured goods to be exported, matches the notification of manufacturing facility and capacity; information, documents, and quantity of goods in inventory (in storage, on the manufacturing lines, semi-finished products, incomplete products, etc.) are not consistent with accounting records, documents about exported or imported goods, the declaration shall be requested to provide explanation.
 - b.1) If the customs authority accepts the explanation, Point a of this Clause shall be followed;
 - b.2) If the customs authority does not accept the explanation or the declarant does not provide explanation, the customs authority shall make decisions on tax settlement, impose administrative penalties in accordance with regulations of law on taxation, customs, and existing documents, or request a competent person to take actions as prescribed by law.

8. Updating inspection information

The decision on inspection, conclusion about the inspection of use, inventory of materials/supplies, machinery, equipment, and exported goods shall be update on the System within 01 day from the day on which the decision on inspection or the conclusion is signed.

Article 60. Statement

1. Deadline for submitting the statement

Every year, the declarant shall submit the statement of the use of materials/supplies, machinery, equipment, and exported goods to the customs authority within 90 days from the end of the fiscal year.

2. The statement shall be submitted at the Sub-department of Customs where import procedures are followed as prescribed in Article 58 of this Circular or the supervisory Sub-department of Customs of the contract manufacturer.

3. Responsibilities of the declarant:

a) Submitting the statement

a.1) With regard to entities that import materials for manufacturing of goods for export:

The statement shall contain the total value of purchase, sold, and inventory of materials/supplies, semi-finished products, and finished products (form No. 15/BCQT-NVL/GSQL in Appendix V enclosed herewith) and be submitted to the customs authority via the System. The statement must match the declarant's accounting records.

In case an entity imports materials/supplies for manufacturing and sells the products to another entity for inward processing or manufacturing of goods for export, both of them must submit the statements as prescribed in this Article;

a.2) With regard to contract manufacturers (inward processors):

The entity that monitor imported materials/supplies provided by the hiring party, hired machinery and equipment for performing the processing contract, semi-finished products, and finished products at off-balance accounts or on its internal control system, the statement of materials/supplies shall be made according to form No. 15/BCQT-NVL/GSQL in Appendix V enclosed herewith, and the statement of machinery and equipment shall be made according to form No. 16/BCQT-MMTB/GSQL in Appendix V enclosed herewith. If the internal control system does not monitor quantity of goods by value, the result given by such system may be used for making the statement of the quantity of goods that are not monitored by value;

a.3) Contract manufacturers shall make statements in accordance with Point a.1 and Point a.2 depending on whether materials are imported for inward processing or manufacturing of goods for export.

b) Making and retaining records of imported materials/supplies according to regulations of the Ministry of Finance on accounting, audit, which specify the numbers of declarations of imported materials/supplies;

c) Making and retaining records of exported products according to regulations of the Ministry of Finance on accounting, audit, which specify the contract and order numbers;

d) Making and retaining documents about the treatment of waste and rejects;

dd) Presenting all accounting documents about the imported materials/supplies, machinery, and equipment and exported products when the customs authority carries out an inspection at the enterprise's premises.

5. Responsibilities of the customs authority:

a) Receive statements of use of imported materials/supplies, machinery, and equipment submitted by the declarant;

b) Examine the statements:

b.1) Cases in which the statement is examined:

b.1.1) The entity submits the first statement;

b.1.2) The figures on statement are unusually different from the System;

b.1.3) An inspection is carried out at the taxpayer's premises after the decision on tax refund or tax cancellation;

b.1.4) The statement is examined on the basis of risk management, assessment of conformity with law of the taxpayer.

Statements of preferred enterprises shall be examined in accordance with regulations of the Ministry of Finance on application of preferential policies to export and import procedures.

b.2) If an inspection is carried out at the taxpayer's premises before a decision on tax refund or tax cancellation is issued, the Director of Customs Department shall examine both the statement and the eligibility for tax refund or tax cancellation;

b.3) The inspection results shall be handled following the procedures for inspecting the use of materials/supplies, machinery, and equipment at the declarant's premises in Clauses 2, 3, 4, 5, 6, 7, 8 Article 59 of this Circular.

If the statement examination is combined with examination of the application for tax refund or tax cancellation for materials/supplies imported for manufacturing of goods for export at the declarant's premises, apart from the procedures prescribed in Article 59 of this Circular, the customs authority must examine the accuracy and truthfulness of the application for tax refund or tax cancellation and the declarant's fulfillment of the conditions for tax refund or tax cancellation.

Section 2. Customs procedures applied to goods processed in Vietnam under contracts with foreign traders

Article 61. Procedures for importing materials/supplies, machinery, equipment, and exporting products

1. Procedures for importing materials/supplies

- a) The customs dossier, customs procedures applied to imported materials/supplies (including finished products provided by the hiring party that are attached on or packed with the processed products as full packs; materials/supplies imported by the contract manufacturer) are similar to customs procedures for importing goods prescribed in Chapter II of this Circular;
- b) Customs procedures applied to materials/supplies provided by the Vietnamese entity as requested by the foreign party in the form of indirect export shall comply with Article 86 of this Circular;
- c) The declarant is not required to follow customs procedures for materials/supplies manufactured or purchased by the contract manufacturer in Vietnam (unless they are bought from a contract manufacturer or a enterprise in a free trade zone). If materials/supplies are subject to export tax, the contract manufacturer shall declare, calculate export tax and other taxes on the declaration of export of processed products according to the tax rates, values of the materials/supplies that form the products;
- d) If materials/supplies are imported for inward processing before the processing contract is signed:

The contract manufacturer may use materials/supplies imported in such manner to perform the processing contract. Tax policies, procedures for tax refund are similar to import of materials for manufacturing of goods for export prescribed in Article 114 of this Circular if the period from the registration date of the import declaration to the registration date of the declaration of exported goods made of such materials/supplies does not exceed 02 years.

If the manufacturing cycle of manufactured products to be exported is longer than 02 years, the declarant must provide documents proving the manufacturing cycle for the Sub-department of Customs where the processing contract is finalized and obtain permission.

2. Procedures for importing hired/borrowed machinery and equipment for performing processing contracts

Customs procedures for import of hired/borrowed machinery and equipment serving performance of the processing contract are the same as the procedures temporary import for re-export prescribed in Article 50 of Decree No. 08/2015/NĐ-CP.

3. Procedures for exporting processed products

Customs dossiers and customs procedures are the same as those of exported goods prescribed in Chapter II of this Circular.

Article 62. Customs procedures for subcontracting processing

1. If the entity that signs a processing contract with a foreign trader hires another entity to process goods (the latter is referred to as “subcontractor”) according to Point b Clause 2 Article 32 of Decree No. 187/2013/NĐ-CP, the entity that signs the contract with the foreign trader shall follow customs procedures, finalize the processing contract with the customs authority, and take responsibility for the performance of such contract. The entity that signs the processing contract with the foreign trader shall submit a written notification of the name, address of the headquarter and address of the manufacturing facility of itself and the subcontractor, the time for delivering materials/supplies to the subcontractor to the customs authority. The notification shall be submitted before the materials/supplies are delivered.

2. Goods delivered between Vietnamese entities are exempt from customs procedures.

3. If a contract manufacturer is hired or a contract manufacturer subcontracts processing to another entity (subcontractor), regulations in Article 76 of this Circular shall be complied with.

Article 63. Procedures for delivering and receiving goods forwarded for further processing

1. Goods forwarded for further processing prescribed in Article 33 of Decree No. 187/2013/NĐ-CP must follow customs procedures for indirect export prescribed in Article 86 of this Circular.

2. The legal representatives of the deliverer and the consignee shall make sure the products are made of the materials/supplies under the processing contract and are used for processing purpose only.

3. If the processing contract to forward products for further processing and the contract to process forwarded products are executed by the same contract manufacturer, such contract manufacturer shall perform the tasks of both the deliverer and the consignee.

Article 64. Procedures for handling excess materials/supplies, waste, rejects, hired/borrowed machinery and equipment

1. Deadline for handling materials/supplies, machinery, and equipment when the processing contract is completed or expires

a) Within 15 days from the completion date or expiration date of the processing contract, the declarant shall send a written notification to the Sub-department of Customs where the contract is finalized of the solution for handling excess materials/supplies, hired/borrowed machinery and equipment, waste and rejects (form 17/XL-HĐGC/GSQL in Appendix V enclosed herewith);

b) Within 15 days from the notification date, the declarant must complete the customs procedures for handling such excess materials/supplies, hired/borrowed machinery and equipment, waste and rejects (if any).

2. Handling methods

Pursuant to Vietnam's law and terms of the processing contract, excess materials/supplies, hired/borrowed machinery and equipment, waste and rejects shall be:

- a) Sold in Vietnam;
- b) Re-exported to abroad;
- c) Used for another processing contract in Vietnam;
- d) Donated or given away in Vietnam;
- dd) Destroyed in Vietnam.

3. Customs procedures

a) Customs procedures for selling giving excess materials/supplies, waste, rejects, hired/borrowed machinery and equipment above the norm in Vietnam:

a.1) If the buyer or the consignee is the contract manufacturer, the procedures for repurposing in Article 21 of this Circular shall be followed;

a.2) If the buyer or the consignee is another entity in Vietnam, the procedures for indirect export prescribed in Article 86 of this Circular shall be followed.

b) Procedures for re-exporting materials/supplies, machinery, and equipment that are temporarily imported to abroad while performing the processing contract or after the processing contract is completed or expires are the same as procedures for re-exporting goods to abroad prescribed in Clause 2 and Clause 3 Article 50 of Decree No. 08/2015/NĐ-CP;

c) Procedures for using materials/supplies, machinery, and equipment for another processing contract with the same or another hiring entity while performing the processing contract or when the processing contract is completed or expires are the same as procedures for indirect export prescribed in Article 86 of this Circular;

d) Destruction of materials/supplies, waste and rejects in Vietnam:

d.1) The declarant shall send a notification of the solution for destruction of materials/supplies, waste, and rejects specifying the method and location of destruction to the Sub-department of Customs where materials/supplies are imported. The declarant is responsible for the destruction as prescribed by regulations of law on environmental protection;

d.2) The customs authority shall supervise the destruction of materials/supplies, waste, and rejects under risk management rules based on assessment of the declarant's conformity with law.

The declarant that is a preferred enterprise shall assume the sole responsibility for the destruction without supervision by the customs authority.

dd) With regard to excess materials/supplies imported by a trader for inward processing purpose, when the processing contract is completed or expires:

dd.1) if the hiring entity has paid for the materials/supplies, regulations of Clause 1 and Clause 2 of this Article shall be complied with;

dd.2) if the hiring entity has not paid for the materials/supplies, a new declaration shall be registered and the procedures in Chapter II of this Circular shall be followed.

4. With regard to processing contracts with the same hiring entity and contract manufacturers, materials of the same type, specifications, and quality may be offset against each other.

5. If the amount of excess materials/supplies imported for inward processing does not exceed 3% of the total amount of materials/supplies imported, customs procedures for repurposing are exempt when such excess materials/supplies are sold onto the domestic market. However, taxes must be declared and paid to inland tax authorities in accordance with regulations of law on taxation.

Article 65. Actions against late submission of the statement of use of materials/supplies, machinery, and equipment, late initiation of customs procedures for excess materials/supplies, hired/borrowed machinery and equipment upon completion or expiration of the processing contract

1. Actions against late submission of statements of use of imported materials/supplies, machinery, and equipment:

a) Within 30 days from the deadline for submitting the statement, the Sub-department of Customs to which the statement is supposed to be submitted shall:

a.1) Send an invitation to the customs authority to the declarant for making a offence notice;

a.2) If the declarant does not go to the customs authority within 15 days from the day on which the invitation is sent, the customs authority shall carry out an investigation at the business premises;

a.3) Inspect the documents and goods of the next export/import shipment of the declarant;

a.4) Cooperate with a competent authority in investigating, verifying, and tracking down the entity that is suspected of making a getaway.

b) Measures to be taken after urging, investigation, verification, and tracking down:

b.1) If the declarant fails to report the use of materials/supplies, machinery, and equipment but still operates and the customs authority has taken the measures prescribed in Points a.1, a.2, a.3 Clause 1 of this Article without result, a site inspection of the use of materials/supplies, machinery, and equipment shall be carried out;

b.2) If the declarant is missing or has made a getaway, the customs dossier shall be completed and transferred to a competent authority for investigation into smuggling and tax evasion as prescribed by Criminal Code;

2. If customs procedures for excess materials/supplies, hired/borrowed machinery and equipment are not initiated on schedule, the Sub-department of Customs to which the statement is submitted shall:

a) Make a offence notice;

b) Request the Director of the Customs Department to carry out a site inspection of the use of imported materials/supplies, machinery, and equipment.

Article 66. Actions against the hiring party that abandons excess materials/supplies, hired/borrowed machinery and equipment, or processed products

1. The contract manufacturer shall pay taxes in order to sell such excess materials/supplies, hired/borrowed machinery and equipment, or processed products which are abandoned by the hiring entity on the domestic market, except for the case in Clause 5 Article 64 of this Circular. Customs procedures and tax policies shall be determine at the time of repurposing prescribed in Article 25 of Decree No. 08/2015/NĐ-CP and Article 21 of this Circular.

2. In case of destruction, Point d Clause 3 Article 64 of this Circular shall be complied with.

Section 3. Customs procedures applied to outward processing

Article 67. Procedures for export of materials/supplies serving outward processing and import of compensating products

1. Procedures for exporting materials/supplies:

a) Customs procedures shall be followed at the most convenient Sub-department of Customs;

b) The customs dossier is similar to that of exported goods prescribed in Chapter II of this Circular. If the exported materials/supplies are on the list of exported goods subject to licensing by the Ministry of Industry and Trade or a regulatory body, the license must also be presented;

b) Customs procedures are the same as export procedures prescribed in Chapter II of this Circular;

c) In case if indirect outward processing, the hiring entity in Vietnam is not required to follow procedures for indirect outward processing at the customs authority.

2. Procedures for importing compensating products

a) Customs procedures shall be followed at the Sub-department of Customs where export procedures were carried out;

b) The customs dossier and customs procedures shall comply with Chapter II this Circular;

c) Tax policies on imported compensating products shall comply with Clause 4 Article 103 of this Circular.

The quantity of materials/supplies exported from Vietnam that form the imported compensating products shall be determined by the declarant according to the norms for manufacturing of compensating products that are imported.

Article 68. Procedures for temporarily exporting compensating products for recycling, then re-importing them into Vietnam.

1. Customs procedures shall be followed at the most convenient Sub-department of Customs;

2. Procedures for temporary export of compensating products for recycling:

a) The customs dossier consists of the documents prescribed in Clause 1 Article 16 of this Circular and documents for receipt of goods for recycling made by the foreign party: 01 original copy;

b) Customs procedures are the same as export procedures prescribed in Chapter II of this Circular;

c) The time limit for recycling shall be registered with the customs authority, which must not exceed 275 days from the date of temporary export.

3. Procedures for re-imported of recycled compensating products shall comply with Chapter II of this Circular (except for import license, tax declaration, tax verification).

In case recycled compensating products are sold overseas, the declarant shall register a declaration of exported goods and follow customs procedures in Chapter II of this Circular (except for physical inspection of goods).

Article 69. Customs procedures for handling excess materials/supplies, rejects, waste; machinery and equipment temporarily exported to serve outward processing

1. Handling methods:

Based on the processing contract and pursuant to Vietnam's law, excess materials/supplies, hired/borrowed machinery and equipment, waste and rejects shall be:

- a) Sold, donated/given out, or destructed overseas;
- b) Imported into Vietnam;
- c) Used for another processing contract overseas.

2. Customs procedures:

a) The overseas sale, donation, destruction of excess materials/supplies, machinery and equipment, waste and rejects serving the performance of the processing contract shall comply with regulations of the country in which goods are processed. For excess materials/supplies, machinery, equipment, the declarant shall register a new customs declaration and follow customs procedures prescribed in Chapter II of this Circular;

b) Customs procedures for import into Vietnam:

b.1) If excess materials/supplies, machinery, equipment are exported from Vietnam; waste and rejects are derived from materials/supplies exported from Vietnam, procedures for re-import shall be followed.

b.2) If excess materials/supplies, machinery, equipment are purchased overseas; waste and rejects are derived from materials/supplies purchased overseas, customs procedures are the same as those for commercial import of goods;

b.3) With regard to shipments of machinery and equipment subject to physical inspection, the customs official shall compare the categories, numbers, symbols of machinery and equipment on the declaration of temporary export with the re-imported machinery and equipment

c) Procedures for using excess materials/supplies, hired/borrowed machinery and equipment for another processing contract:

The declarant shall send a written notification to the Sub-department of Customs where the statement is submitted of the names, specifications, quality of materials/supplies; amount of excess materials/supplies, hired/borrowed machinery and equipment under the process contract No. (or its appendices) which are used for the processing contract No. ... with (specify the overseas contract manufacturer).

Section 4. customs procedures, customs supervision and inspection of materials and supplies imported for manufacturing of goods for export

Article 70. Procedures for importing materials/supplies and exporting products

1. Procedures for importing materials/supplies

- a) The customs dossier and customs procedures shall comply with Chapter II this Circular;
- b) Determination of manufacturing facility under the ownership of the taxpayer for application of 275-day time limit:
 - b.1) The taxpayer must have the lawful right to use the premises and workshops (including workshops associated with land). If the workshop or manufacturing facility is leased from another entity, the lessee might be eligible for 275-day time limit if the land lease contract is legitimate and has a longer effective period than the manufacturing contract;
 - b.2) The taxpayer must have the lawful right to own or use machinery and equipment at the manufacturing facility that are suitable for the imported materials/supplies according to the commitment.

2. Procedures for exporting products

- a) Processed products to be exported include:
 - a.1) Products entirely made of materials/supplies for manufacturing of goods for export;
 - a.2) Products that are combination of:
 - a.2.1) Materials/supplies imported for manufacturing of goods for export;
 - a.2.2) Materials/supplies imported for sale;
 - a.2.3) Domestic materials/supplies.
 - a.3) Products entirely made of materials/supplies imported for sale on condition that the period from the registration date of the declaration of imported materials/supplies to the registration date of the declaration of exported products made of such materials/supplies does not exceed 02 years;
 - a.4) Products made of imported materials/supplies that are directly exported by the importer of such materials/supplies or that are sold to another exporter.
- b) The customs dossier and customs procedures shall comply with Chapter II this Circular;
- c) Tax policies shall comply with section 4 Chapter VII of this Circular.

Article 71. Procedures for handling waste and rejects sold domestically

- 1. When rejects and waste within the norm for manufacture of goods for export (such as peanut shells) are sold domestically, customs procedures are exempt. However, taxes must be declared and paid to inland tax authorities in accordance with regulations of law on taxation.

2. Article 21 of this Circular shall be followed when waste and rejects above norm for manufacture of goods for export are sold domestically.

Article 72. Procedures for destruction of materials/supplies, waste, rejects

1. Procedures for destruction are the same as procedures for destruction of excess materials/supplies, waste, rejects of from processing operations prescribed in Point d Clause 3 Article 64 of this Circular.

2. The declarant is responsible for the destruction as prescribed by law.

Article 73. Customs procedures for selling products to another exporter

1. The entity that imports materials/supplies for manufacturing of goods for export shall follow import procedures, establish norms, and report the use of imported materials/supplies as prescribed by this Circular.

2. The entity that directly exports products shall follow export procedures prescribed by this Circular. The declaration of exported goods must specify that goods are made of materials imported for manufacturing of goods for export and the seller's name.

Section 5. Customs procedures, customs supervision of exported, imported goods of contract manufacturers

Article 74. General principles

1. Goods imported for manufacturing of goods for export of an contract manufacturer (EPE) must follow customs procedures and be used for manufacturing only, except for the following cases in which the EPE may choose whether to follow customs procedures:

- a) Goods are traded among EPEs;
- b) Goods are building materials, stationery, food, consumables bought from the domestic market to build, serve the operation of the EPE and life of the EPE's employees;
- c) Goods circulated within an EPE or among EPEs in the same export-processing zone;
- d) Goods of EPEs of the same corporation or group of companies in Vietnam;
- dd) Goods delivered and dispatched by the EPE for repair, classification, packaging, or repackaging.

If customs procedures are not followed, the EPE shall keep a log of goods delivered and dispatched in accordance with regulations of the Ministry of Finance on goods trading, accounting, audit; Purposes and sources of supply of goods must also be specified.

2. Goods purchased by the EPE from the domestic market or imports from abroad on which taxes have been fully paid and regulations on management of exported or imported goods are adhered to when goods are sold on the domestic markets are exempt from customs procedures.

3. The supervisory customs authority of the export-processing zone and EPEs only supervises at the gate of the export-processing zone, and only supervises an EPE if requested by the Director of the Customs Department.

Article 75. Customs procedures applied to exported/imported goods of EPEs

1. With regard to materials/supplies imported to form fixed assets; imported consumables

Customs procedures shall comply with Chapter II this Circular. The declarant must provide sufficient information on the customs declaration on the System, except for the tax rate and tax amount.

2. With regard to goods imported from abroad to serve manufacture of workshop, office building, and installation of equipment of EPEs:

Customs procedures shall comply with Chapter II this Circular.

If the importer imports goods to serve manufacture of workshops, office buildings, installation of equipment for an EPE, the quantity of imported goods must be reported to the supervisory customs authority of the contract manufacturer (form No. 18/NTXD-DNCX/GSQL in Appendix V enclosed herewith) after the work is transferred to the EPE.

3. With regard to goods traded between an EPE and a domestic enterprise:

The EPE and the domestic enterprise shall follow the corresponding customs procedures for indirect export as prescribed in Article 86 of this Circular.

4. If customs procedures for trading goods between two EPEs are followed, they shall follow procedures for indirect export prescribed in Article 86 of this Circular.

5. With regard to waste and rejects that may be sold domestically

Customs procedures shall comply with Chapter II of this Circular, according to which the EPE shall follow export procedures and the domestic enterprise shall open a corresponding declaration of imported goods.

6. Goods that were exported by an EPE and but have to be re-imported for repair and then re-exported shall follow customs procedures for exported goods that are returned as prescribed in Article 47 of Decree No. 08/2015/NĐ-CP.

Article 76. Customs procedures for an EPE hiring a domestic contract manufacturer, a domestic enterprise hiring an EPE as a contract manufacturer, an EPE hiring another EPE as a contract manufacturer

1. Goods processed by an inland enterprise hired by an EPE:

a) The domestic enterprise shall follow customs procedures in accordance with regulations on inward processing prescribed in Section 2 of this Circular;

b) The EPE is not required to follow customs procedures when dispatching materials/supplies to inland for processing and when receiving processed products from inland.

In case goods are dispatched by the EPE to the domestic enterprise for inward processing or repair but are not received back, a new declaration shall be register for repurposing as prescribed in Chapter II of this Circular.

2. Goods processed by an EPE hired by an inland enterprise:

a) The domestic enterprise shall follow customs procedures for hiring overseas contract manufacturer;

b) The EPE is not required to follow customs procedures when receiving materials/supplies from the domestic enterprise for processing and when dispatching processed products to the domestic enterprise.

3. With regard to goods processed by an EPE hired by another EPE:

Both the hiring EPE and the hired EPE are not required to follow customs procedures when dispatching, receiving materials and supplies to perform the processing contract.

Article 77. Customs procedures for exported or imported goods by the right to export, right to import, and right to distribute of EPEs

1. EPEs that are permitted to engage in goods trading and activities directly related to goods trading in Vietnam as prescribed in the Government's Decree No. 23/2007/NĐ-CP dated February 12, 2007 must record them separately from manufacturing; a separate area must be provided for storing exported or imported goods by the right to import, right to export, and right to distribute.

2. The EPE shall fulfill its tax liability and other financial obligations to goods trading and relevant activities as prescribed by law. Investment incentives, tax incentives, and other financial incentives applied to manufacturing of goods for export shall not apply to goods trading and relevant activities of the EPE.

3. Customs procedures shall comply with Chapter II this Circular. The Ministry of Finance provides additional instructions on exercising the EPE's right to export and right to import as follows:

a) The EPE must write on the electronic customs declaration the number of the written permission for goods trading and relevant activities issued by a competent authority to a foreign-invested company which has registered the right to export, right to import;

b) Goods have been imported by the right to import of the EPE:

b.1) Customs procedures are exempt when goods are sold to domestic enterprises;

b.2) When goods are sold to another EPE or an enterprise in a free trade zone, customs procedures for indirect export prescribed in Article 86 of this Circular shall be applied.

c) Customs procedures for goods of the EPE exercising its right to export:

c.1) Customs procedures are exempt when purchasing goods from a domestic enterprise. However, customs procedures for exporting goods for sale shall be followed when such goods are exported;

c.2) Procedures applied to domestic enterprises buying goods from an EPE shall be followed when goods are purchased from another EPE for export; Procedures for goods export shall be followed when such goods are exported; tax shall be declared (if any).

Article 78. Handling imported assets, goods when an EPE is converted to another type of business and vice versa

1. When an EPE is converted into another type of business and vice versa:

a) The contract manufacturer shall determine the imported assets and goods in inventory and propose a solution to the customs authority;

b) The customs authority and the EPE shall follow corresponding customs procedures;

c) Imported assets and goods shall be determined and liquidated before the conversion is permitted by a competent authority.

2. When converting another type of business into an EPE:

a) The enterprise shall report the quantity of materials/supplies in inventory; the customs authority shall carry out an inspection and take appropriate actions;

b) Before converting, all outstanding taxes and fines must be paid to the customs authority. The customs authority shall only apply preferential tax and customs policies on EPEs to the enterprise after all tax and customs liabilities are fulfilled.

Article 79. Liquidation of machinery, equipment, and means of transport that form fixed assets

1. The methods of liquidation, goods subject to liquidation, conditions for liquidation, and documents about liquidation of imported goods of EPEs are specified in Circular No. 04/2007/TT-BTM dated April 04, 007 of the Ministry of Trade (now the Ministry of Industry and Trade).
2. Liquidation procedures shall be followed at the supervisory Sub-department of Customs of the EPE.
3. Liquidation procedures:
 - a) The EPE shall send its supervisory Sub-department of Customs a written notification of the reasons for liquidation, method of liquidation, names and quantity of goods to be liquidated, numbers and dates of customs declarations;
 - b) If goods are liquidated in the form of export, the enterprise shall open a declaration of exported goods;
 - c) If goods are liquidated by selling, giving, or donating on Vietnam's market, the EPE shall follow the procedures for liquidation and repurposing as follows:
 - c.1) The EPE shall registers a new customs declaration, tax policies, imports management policies applicable at the time of registration of the declaration of repurposing (unless all import management policies were fulfilled at the time of import); the basis for tax calculation is the dutiable values, tax rates, and exchange rates at the time of registering the declaration of repurposing;
 - c.2) After repurposing, customs procedures are not required when goods are sold, given, or donated on Vietnam's market.
 - d) In case of destruction, Point d Clause 3 Article 64 of this Circular shall be complied with.

Article 80. Procedures for hiring a warehouse outside an EPE (hereinafter referred to as “external warehouse”) to store materials and products of the EPE; customs management of external warehouse inventory

The EPE may lease an external warehouse in a industrial park, export-processing zone, hi-tech zone, economic zone within the scope of its supervisory Sub-department of Customs to store materials/supplies and finished products serving its primary manufacturing operation. Manufacturing process must not take place at the leased warehouse.

1. Procedures for warehouse leasing:
 - a) The warehouse must:

a.1) Have sturdy surround walls that separate the warehouse from the outside;

a.2) Have surveillance cameras that work constantly at the gates which can be accessed by the customs authority where necessary.

b) Responsibilities of the EPE:

The EPE shall send a written notification of the location, area, infrastructure, mechanism for warehouse inventory management, and lease duration to its supervisory Sub-department of Customs;

c) Responsibilities of the supervisory Sub-department of Customs:

At the request of the EPE, the supervisory Sub-department of Customs of the EPE shall inspect the condition of the warehouse, compare with the conditions prescribed in Point a of this Clause in order to consider permitting the EPE to lease an external warehouse.

2. Entitlement to permit lease of external warehouse lease:

a) The supervisory Sub-department of Customs of the EPE is entitled decide the lease of external warehouse if the leased warehouse under the management of the Sub-department of Customs;

b) The Customs Department is entitled to the lease of external warehouse if the leased warehouse is under the management of the Customs Department;

c) The General Department of Customs is entitled to the lease of external warehouse if the leased warehouse is under the management of two Customs Departments or more;

3. Management of goods sent to the external warehouse:

a) The EPE shall manage and monitor goods delivered to and dispatched from the warehouse on the accounting record system and submit a report on the 15th of the first month of the next quarter via the inventory system to its supervisory Sub-department of Customs. If this function is not supported by the System, form No. 19/NXTK-DNCX/GSQL in Appendix V enclosed herewith shall be used;

b) The supervisory Sub-department of Customs of the EPE shall carry out extraordinary inspections of goods in the warehouse if it is suspected that goods are sent to the warehouse improperly or goods in the warehouse are sold domestically.

Chapter IV

CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION OF SOME TYPES OF EXPORT AND IMPORT

Section 1. Customs procedures, customs supervision of temporarily imported goods and temporarily exported goods

Article 81. Certification of export, import or temporary import of goods

1. Any trader that wishes to obtain a temporary import number as prescribed in Article 13 of Circular No. 05/2014/TT-BCT shall submit an application for certification of export, import, or temporary import of goods to the General Department of Customs, whether directly or by post. The application consists of:

a) A written request for certification of export, import or temporary import of goods: 01 original copy;

b) A Certificate of Business Registration or Certificate of Business registration: 01 photocopy.

2. Within 05 working days from the receipt of the application, the General Department of Customs shall check information on the System and issue a certification or respond the enterprise if conditions for certification are not fulfilled.

Article 82. Customs procedures for temporary import of goods

Customs procedures for temporary import of goods are the same as those for export, import of goods prescribed in Chapter III of Decree No. 08/2015/NĐ-CP. Additional instructions:

1. Customs procedures for temporary import

a) Customs procedures for temporary import of goods shall be followed at the Sub-department of Customs at the checkpoint where temporarily imported goods are stored;

b) Apart from the documents prescribed in Clause 2 Article 16 of this Circular, The customs dossier of temporarily imported goods must also contain:

b.1) A contract for sale of imported goods: 01 photocopy;

b.2) With regard to temporarily imported goods subject to conditions prescribed by the Government:

b.2.1) A certificate of temporary import number issued by the Ministry of Industry and Trade: 01 photocopy;

b.2.2) A license for temporary import of goods issued by the Ministry of Industry and Trade (if the temporary import of goods is subject to licensing by the Ministry of Industry and Trade): 01 original copy.

2. Customs procedures for re-export

a) Procedures for re-export shall be followed at the Sub-department of Customs at the checkpoint of at which goods are temporarily imported (hereinafter referred to as “checkpoint of temporary import”) or the Sub-department of Customs at the checkpoint where goods are re-exported (hereinafter referred to as “checkpoint of re-export”). With regard to temporarily imported goods subject to conditions prescribed by the Government, customs procedures for re-export shall be carried out at the Sub-department of Customs at the checkpoint temporary import;

b) Customs dossier of re-exported goods shall comply with Clause 1 Article 16 of this Circular.

If customs declaration form No. HQ/2015/NK in Appendix V enclosed herewith is used when following customs procedures for temporary import of goods, the same form shall also be used when following customs procedures for re-export;

c) While following procedures for re-export, the trader must provide information about the number of the declaration of temporarily imported goods, ordinal number of corresponding lines on the declaration of temporarily imported goods and the declaration of re-exported goods on the System; the System shall deduct a corresponding quantity of goods from the declaration of temporarily imported goods.

A declaration of temporarily imported goods may be used for partial shipments of re-export. A declaration of re-exported goods is made according to only one corresponding declaration of temporarily imported goods. The Sub-department of Customs where the declaration of re-exported goods is registered shall check information about the declaration of temporarily imported goods on the System to carry out procedures for re-export.

In case of paper-based customs declaration, the declarant shall specify the number of the declaration of re-exported goods on the export declaration (form No. HQ/2015/XK in Appendix IV enclosed herewith).

3. Checkpoint of temporary import and checkpoint of re-export

a) Goods temporarily imported for re-export must be temporarily imported and re-exported through the checkpoints and customs clearance points prescribed in Clause 8 Article 11 of the Government's Decree No. 187/2013/NĐ-CP dated November 20, 2013 and instructions of the Ministry of Industry and Trade;

b) If the checkpoint of re-export on the declaration of exported goods is changed but the transport modal is not changed, the declarant shall send a written request to the Sub-department of Customs where the customs declaration is registered. If approved, the customs official shall change the supervision point on the System. The Sub-department of Customs at the checkpoint where goods are stored shall make a transfer note, seal the goods, and send them to the Sub-department of Customs at the checkpoint of export.

If the checkpoint or re-export on the declaration of exported goods is changed and customs clearance is yet to be granted, the declarant shall make additional declaration as prescribed in Article 20 of this Circular. If the change of the checkpoint of re-export results in the change of

the transport modal, the declarant shall change the checkpoint of export and destination on the declaration of exported goods;

c) If temporarily imported goods are re-exported to a free trade zone, bonded warehouse, or export-processing zone, the checkpoint of export shall be the such free trade zone, bonded warehouse, or export-processing zone.

4. Retention period

a) The period of retention of goods temporarily imported for re-export in Vietnam shall comply with Clause 4 Article 11 of Decree No. 187/2013/NĐ-CP;

b) The trader that wishes to extend the retention period in Vietnam shall send a written request to the Sub-department of Customs at the checkpoint where procedures for temporary import were followed. The Director of the Sub-department of Customs shall consider granting the request and return it to the trader for following procedures for re-export of goods; 01 photocopy shall be kept together with the customs dossier. A shipment shall be granted not more than 02 extensions, each of which shall not exceed 30 days;

c) Temporarily imported goods subject to conditions of the Government or goods restricted from import prescribed by the Ministry of Industry and Trade must be re-exported through the checkpoint of temporary import within 15 days from the expiration of the retention period (goods must not be re-exported to checkpoints other than the checkpoint of temporary import). Goods that are not re-exported shall be confiscated and handled as prescribed. If goods must be destroyed, the trader shall incur the destruction cost. The Sub-department of Customs at the checkpoint of temporary import shall take charge and cooperate with the Sub-department of Customs at the checkpoint of re-export in transferring, managing, supervising, and handling goods that are retained in Vietnam after the deadline for retention expires.

5. Retention location

Goods temporarily imported for re-export (including those that have completed procedures for temporary import or re-export pending export) shall be kept at one of the following location:

a) An are under customs supervision at the checkpoint;

b) An ICD or bonded warehouse at the checkpoint of import or checkpoint of export;

c) Warehouse/depot of the traders within a customs area issued with temporary import number by the Ministry of Industry and Trade.

6. Supervision of goods transported from the checkpoint of temporary import to the checkpoint of re-export

When temporarily imported goods are transported from the checkpoint of temporary import to the checkpoint of re-export, the declarant/carrier must declare the transport on the System in the following cases:

- a) Goods are temporarily imported at a checkpoint and re-exported at another;
- b) Goods are temporarily imported at a checkpoint and transported to a storage location, then re-exported at another checkpoint.

Customs procedures for transporting goods shall comply with regulations on transport of goods under customs supervision in Article 51 of this Circular.

7. Customs procedures for selling goods domestically instead of being re-exported shall comply with Clause 5 Article 21 of this Circular.

Article 83. Management of goods temporarily imported for re-export

1. Management of goods temporarily imported for re-export

- a) Container must not be divided throughout the transport of goods from the checkpoint of temporary import to the customs controlled area, the re-export location at the checkpoint, or the customs clearance post.

If the container must be changed or divided, the trader shall submit a written request specifying the reasons, time of beginning and finishing changing or dividing the container for re-export; the Director of Sub-department of Customs in charge of the storage place shall grant a permission if the following conditions are satisfied:

- a.1) Goods are being kept at one of the locations mentioned in Clause 5 Article 82 of this Circular or customs clearance posts; goods gathering and inspection places at the checkpoint;
- a.2) The container or the means of transport is qualified for customs sealing. Otherwise, appropriate customs supervision measures shall be taken by Sub-department of Customs at the checkpoint of re-export to ensure tightness and conformity with law.
- b) Goods being moved to another means of transport or container shall be put under supervision;
- c) Temporarily imported goods that have been granted customs procedures must be gathered at goods inspection places, bonded warehouse at the checkpoint of temporary import or checkpoint of re-export, and be exported through the checkpoint within 08 working hours since goods arrives at the checkpoint of export. If goods cannot be exported or not completely exported, the Director of Sub-department of Customs at the checkpoint of export shall consider extending the deadline if the trader submits a written request, provided they are completely exported within the time limit for retention in Vietnam. While awaiting the next re-export, goods must be kept at the places prescribed in Clause 5 Article 82 of this Circular;

d) If the checkpoint of re-export is different from the checkpoint of temporary import, the Sub-department of Customs at the checkpoint of temporary import shall seal the goods and request the declarant to move them to the checkpoint of re-export.

2. Customs management of temporarily imported goods sent to bonded warehouses and ICDs

a) If procedures for temporary import have been completed and procedures for re-export have not, goods may only be sent to a bonded warehouse or ICD under the management of the Sub-department of Customs at the checkpoint of import. Physical inspection shall be carried out at the bonded warehouse or ICD under the management of the Sub-department of Customs at the checkpoint; If procedures for re-export have been completed, goods must be sent to a bonded warehouse or ICD at the checkpoint of export;

b) Customs management of temporarily imported goods sent to bonded warehouses and ICDs.

b.1) Responsibilities of the trader:

b.1.1) After customs procedures for temporary import or re-export have been completed, if the time limit for goods retention in Vietnam has not expired, the trader send the Sub-department of Customs where temporary import procedures were followed a written request for permission to send goods to a bonded warehouse or ICD pending re-export, specifying the number of the declaration of temporary import or declaration of re-export;

b.1.2) Preserve the status quo of goods while goods are stored at the bonded warehouse or ICD;

b.1.3) Submit 01 photocopy and present the original or the declaration of temporary import or re-export for which customs procedures have been completed to the supervisory Sub-department of Customs of the bonded warehouse or ICD in case of paper-based customs declaration;

b.1.4) If goods have been sent to a bonded warehouse or ICD pending re-export, the trader must complete procedures for re-export before goods are moved from the bonded warehouse or ICD to the checkpoint of export.

b.2) The Directors of the Sub-departments of Customs where procedures for temporary import and re-export were followed shall make a certification on the written request and give it to the enterprise for sending goods to the bonded warehouse or ICD. It shall also be photocopied and enclosed with the customs dossier;

b.3) The supervisory Sub-department of Customs of the bonded warehouse shall carry customs procedures for goods for which procedures for temporary import have been completed similarly to goods sent to the bonded warehouse from the domestic market as instructed in Article 91 of this Circular;

b.4) Supervision of goods for which procedures for temporary import have been completed that are moved from the checkpoint of import to the bonded warehouse or ICD pending re-export and vice versa is similar to imported goods under customs supervision prescribed in this Circular;

b.5) Refund and cancellation of taxes on goods temporarily imported for re-export shall be only be made after goods have been re-exported in reality.

Article 84. Management, monitoring of declarations of temporarily imported goods and temporarily exported goods

1. Temporarily imported goods

a) The Sub-department of Customs where procedures for temporary import are followed shall monitor the quantity of temporarily imported goods on the System.

In case of paper-based customs declaration, the quantity of temporarily imported goods shall be monitored on the paper declaration.

b) After re-export, the trader shall follow procedures for refund or cancellation of import tax on the declaration of temporarily imported goods as prescribed in section 4 Chapter VII of this Circular at the Sub-department of Customs where procedures for temporary import are followed.

2. Temporarily imported goods, temporarily exported goods mentioned in Article 49, Article 50, Article 51, Article 52, Article 53, Article 54, Article 55 of Decree No. 08/2015/NĐ-CP:

a) The Sub-department of Customs where procedures for temporary import or temporary export are followed shall monitor the quantity of temporarily imported goods and temporarily exported goods on the System. If procedures for re-export or re-import are not followed by expiration of the period of temporary import or temporary export that was registered with the customs authority, or such period is not extended, the customs authority shall take appropriate actions as prescribed by law and impose tax (if any).

In case of paper-based customs declaration (including declaration on the Statement of temporarily imported or temporarily exported empty containers/flex tanks of the circulating vehicles mentioned in Point a and Point b Clause 1 Article 49 of Decree No. 08/2015/NĐ-CP) the procedures for re-export, re-import and monitoring of quantity of temporarily imported/exported goods shall be carried out using the paper declaration;

b) With regard to temporarily imported goods, temporarily exported goods subject to import tax, export tax, the declarant shall follow procedures for tax refund or tax cancellation as prescribed in section 4 Chapter VII of this Circular after goods are re-exported or re-imported;

c) If temporarily imported goods, temporarily exported goods are repurposed or sold domestically instead of being re-exported, the procedures prescribed in Article 21 of this Circular shall be followed.

3. In case of paper-based customs declaration, after goods are re-exported or re-imported:

a) If goods are eligible for tax exemption or not subject to import tax, export tax, or subject to 0% import tax, export tax:

a.1) The declarant shall submit a set of documents to the Sub-department of Customs where procedures for temporary import/export were followed, which consists of:

a.1.1) A written request for finalization of the declaration of temporarily imported/exported goods, numbers of the declaration of temporarily imported/export goods and the declaration of re-import/re-export: 01 original copy;

a.1.2) The declaration of re-export/re-import: 01 photocopy;

a.1.3) Payment documents for goods temporarily imported for re-export: 01 photocopy.

a.2) Responsibilities of the customs authority:

Within 02 working days from the receipt of sufficient documents, the customs official shall examine and compare the documents submitted by the declarant and the documents at the customs authority in order to finalize and make certification on the declaration of temporarily imported/exported goods at the customs authority.

b) With regard to temporarily imported goods, temporarily exported goods subject to import tax, export tax, the declarant shall follow procedures for tax refund or tax cancellation as prescribed in section 4 Chapter VII of this Circular at the Sub-department of Customs where procedures for temporary import/export were followed after goods are re-exported or re-imported.

Section 2. Customs procedures, customs supervision and inspection of goods exported, imported for other purposes

Article 85. Customs procedures for import of tax-free goods serving project execution

1. Imported tax-free goods serving project execution include goods imported as fixed assets; materials/supplies, components, semi-finished products serving manufacturing of the preferential projects.

2. Customs procedures

a) Customs places:

Customs procedures for import shall be carried out at the most Sub-department of Customs affiliated to the Customs Departments where the list of tax-free goods or supervisory Sub-department of Customs of the checkpoint where goods are stored, the port of destination written on the bill of lading, transport contract, or the Sub-department of Customs in charge of project goods affiliated to the Customs Department where goods are imported.

With regard to imported goods serving petroleum activities that are eligible for tax exemption as prescribed in Clause 11 Article 103 of this Circular, the declarant shall select the most Sub-department of Customs to follow customs procedures;

b) Customs procedures for import of tax-free goods serving project execution are similar to those applied to imported goods. Besides, the declarant must provide information about the List of tax-free goods on the declaration of imported goods.

The System will automatically deduct the quantity of imported goods corresponding to the quantity of goods on the List of tax-free goods. In case of paper list of tax-free goods, the customs authority shall make a monitoring sheet and deduct goods quantity as prescribed in Clause 4 Article 104 of this Circular.

3. Liquidation, repurposing of tax-free imported goods

a) The methods of liquidating, repurposing goods, conditions, documents for liquidating tax-free imported goods of foreign-invested projects shall comply with instructions in Circular No. 04/2007/TT-BTM dated April 04, 2007 of the Ministry of Commerce (now the Ministry of Industry and Trade) on export, import, processing, liquidation of imported goods, and sale of goods of foreign-invested companies.

If tax-free goods are imported to serve execution of a domestic project, a new declaration shall be used for declaring tax as prescribed in Article 21 of this Circular when goods are repurposed;

b) Procedures for liquidating, repurposing goods shall be followed at the customs authority where the list of tax-free imported goods or the declaration of imported goods is registered (if registration of the list of tax-free imported goods is not required);

c) Procedures for liquidation and repurposing:

c.1) The enterprise or Liquidation Board shall send the customs authority where the declaration of tax-free imported goods was registered the reasons for liquidation or repurposing, names, codes, symbols, quantity, and exempt tax of goods, the number and date of the corresponding declaration;

c.2) In case of export, the enterprise shall open a declaration of exported goods that suits the purpose;

c.3) If goods sold in Vietnam, given, donated, or destroyed, tax shall be calculated on a new customs declaration as prescribed in Article 21 of this Circular. The enterprise shall follow import procedures according to the import purpose, tax policies, policies on management of imported goods applicable at the time of registration of the import declaration, unless all import management policies were fulfilled while following import procedures.

If goods are sold to a enterprise eligible for exemption of import tax, the quantity of tax-free goods must be deducted from the monitoring sheet of tax-free goods issued to the transferee enterprise;

c.4) In case of destruction, the enterprise shall take responsibility as prescribed by the environment authority.

Article 86. Customs procedures applied to indirect export

1. Indirectly exported goods include:

- a) Processed products: hired/borrowed machinery and equipment; excess materials; waste, rejects under processing contracts prescribed in Clause 3 Article 32 of Decree No. 187/2013/NĐ-CP;
- b) Goods traded between an inland enterprise and an EPE or an enterprise in a free trade zone;
- c) Goods traded between a Vietnamese company and a foreign entity without a representative in Vietnam and are requested to be delivered to another enterprise in Vietnam by the foreign entity.

2. Customs procedures for indirect export shall be followed at the most convenient Sub-department of Customs selected by the declarant that suit the purpose.

3. Customs dossier

The customs dossier of indirectly exported goods shall comply with Article 16 of this Circular.

If goods are traded between an inland enterprise and an EPE or an enterprise in a free trade zone, the declarant may use VAT invoices or sale invoices as prescribed by the Ministry of Finance instead of commercial invoices.

4. Time limit for completing customs procedures

Within 15 working days from the day on which exported goods are granted customs clearance and delivered, the local importer shall complete customs procedures.

5. Customs procedures

a) The exporter shall:

- a.1) Complete the declaration of exported goods and mixed transport, specifying the destination code of the Sub-department of Customs where import procedures are followed and the enterprise identification number as instructed in Appendix II of this Circular;
- a.2) Follow procedures for exporting goods as prescribed;
- a.3) Deliver goods to the imported after they are granted customs clearance.

b) The importer shall:

- b.1) Complete the declaration of imported goods by the deadline, specifying the number of the declaration of indirectly exported goods as instructed in Appendix II enclosed herewith;

- b.2) Follow procedures for importing goods as prescribed;
- b.3) Only sell or use imported goods for manufacturing after they are granted customs clearance.
- c) The customs authority where export procedures are followed shall carry out export procedures as prescribed in Chapter II of this Circular;
- d) The customs authority where import procedures are followed shall:
 - d.1) Monitor declarations of indirectly exported goods for which customs procedures have been completed in order to initiate import procedures;-CP.
 - d.2) Carry out inspection according to the classification result given by the System. If physical inspection of goods is required and goods have undergone physical inspection at the Sub-department of Customs of export, the Sub-department of Customs of import shall not carry out physical inspection;
 - d.3) Compile monthly lists of indirectly exported goods that have been granted customs clearance (form No. 20/TKXNTC/GSQL in Appendix V enclosed herewith) and send them to the supervisory tax authority.
- 6. In case a preferred enterprise and its partners, or a conformable enterprise and its partners that are also conformable enterprises who have indirectly exported goods that are delivered many times over a certain period of time under a contract/order with the same buyer or seller, goods may be delivered before customs declaration. Customs declaration shall be made within 30 days from the delivery date. The declarant may register the declaration of indirectly exported goods at the most convenient Sub-department of Customs; tax policies and policies on management of exported or imported goods shall be implemented when the customs declaration is registered. The customs authority only examines documents related to the delivery of goods instead of carrying out a physical inspection. The exporter and the importer must keep documents proving each delivery (such as commercial invoice, VAT invoice, sale invoice, goods dispatch invoice, etc.) and present them to the customs authority on request.

Article 87. Customs procedures applied to exported or imported goods of foreign traders who exercise the right to export or import, foreign-invested companies (except for EPEs exercising the right to export or import prescribed in Article 77 of this Circular)

1. Customs dossier:

In addition to the documents mentioned in Article 16 of this Circular, the declarant must submit the following documents:

- a) With regard to exported or imported goods of foreign traders who exercise the right to export or import without representative entities in Vietnam:

a.1) Certificate or registration or right to export or import issued to the foreign trader by the Ministry of Industry and Trade: 01 photocopy;

a.2) A contract with a customs brokerage agent: 01 photocopy.

b) The Certificate of investment in goods trading and relevant activities of the foreign-invested trader who registers the right to export or import goods of a foreign-invested company: 01 photocopy;

c) If customs procedures are followed at the same Sub-department of Customs, the declarant shall only submit the documents mentioned in Point a and Point b when following customs procedures for the first time.

2. Customs procedures:

Customs procedures applied to exported or imported goods of foreign traders who exercise the right to export or import and foreign-invested companies without representative entities in Vietnam shall comply with Chapter II of this Circular; the declarant shall specify the documents mentioned in Point. A.1 and Point b Clause 1 of this Article on the electronic customs declaration (box “License number”).

Article 88. Customs procedures for goods delivered to and dispatched from transshipment ports

1. The enterprise that operates the transshipment port shall make 02 original copies of the notice of goods transshipment (form No. 21/BKTrC/GSQL in Appendix V enclosed herewith)

2. Goods delivered to and dispatched from the transshipment port is exempt from inspection. If violations of law are suspected, the customs authority shall check the quantity of containers, compare the numbers and symbols of containers with the statement, and carry out physical inspection of goods as prescribed.

3. Quarterly within 15 days after the end of the reporting period, the transshipment enterprise must send a report to the supervisory customs authority of the transshipment port on the quantity of goods delivered to, dispatched from, and remain in the transshipment port.

4. Goods that remain in the transshipment port shall be handled in accordance with Article 58 of the Law on Customs and the corresponding Circular of the Ministry of Finance.

Article 89. Customs procedures applied to transited goods

1. Transited goods that are transported directly from the exporting country to the importing country without passing through any Vietnam’s checkpoint are exempt from customs procedures.

2. Customs procedures applied to transited goods that are taken to a depot of a Vietnam's seaport (not bonded warehouse or transshipment area) while being transported from the exporting country to the importing country:

a) The trader shall:

Submit a set of documents to the Sub-department of Customs where goods are imported which consists of:

a.1) A written request for permission for goods transit (form No. 22/CKHH/GSQL in Appendix V enclosed herewith);

a.2) A bill of lading of the imported goods: 01 photocopy.

b) The Sub-department of Customs at the checkpoint shall:

b.1) Receive and examine the documents;

b.2) Certify the import, append the official's seal and signature on the enterprise's request;

b.3) Monitor the transited shipment until it is exported from Vietnam;

b.4) Certify that goods have passed through the customs controlled area on the written request for permission for goods transit after goods are loaded onto the means of transport;

b.5) In case transited goods are exported through a checkpoint other than the checkpoint of import but still in the same seaport system under the supervision of Customs Department, the customs official shall certify that goods have passed through the customs controlled area on the request after goods are taken to the customs controlled area at the checkpoint of export; Goods delivered to and dispatched from customs controlled areas at checkpoints shall be supervised in accordance with Article 52 of this Circular;

b.6) If the transited shipment is suspected of violations, the Director of the Sub-department of Customs at the checkpoint shall decide a physical inspection and take appropriate actions as prescribed.

c) Transited goods must be exported from Vietnam within 30 days from the day on which they are received and inspected by the Sub-department of Customs at the checkpoint.

3. Goods that pass through a Vietnam's checkpoint and taken to a bonded warehouse or transshipment area at a Vietnam's port while being transported from the exporting country to the importing country shall undergo customs procedures applied to goods delivered to and dispatched from bonded warehouses and transshipment areas of Vietnam's ports.

4. Transited goods shall be removed from Vietnam through the checkpoint of import.

5. Transited goods are exempt from inspection. Physical inspection shall be carried out as prescribed in Article 29 of this Circular if violations of law are suspected.

Article 90. Customs procedures for goods delivered to and dispatched from free trade zones within border economic zones

1. Principles:

Goods delivered to and dispatched from free trade zones within border economic zones must undergo customs procedures, except for the following cases:

a) Cases in which customs procedures are exempt:

a.1) Goods on the list of goods exempt from customs procedures are exported from other sectors of a border economic zone or from inland to a free trade zone which is not separated from the outside by hard fences as prescribed in Section I of Appendix I of Circular No. 109/2014/TT-BTC dated August 15, 2014 of the Ministry of Finance;

a.2) Goods that were previously imported on the List of goods subject to tax according to section II of Appendix II enclosed with Circular No. 109/2014/TT-BTC of the Ministry of Finance are taken from a free trade zone within a border economic zone to inland;

a.3) Goods derived from inland products prescribed in Point a.1 of this Clause are taken from a free trade zone within a border economic zone to inland.

b) Cases in which customs procedures are optional:

Goods are stationery, food, consumables used by bought by enterprises in a free trade zone from inland to serve their operation and life of their employees, except for the case mentioned in Point a.1 of this Clause.

2. Customs places

a) The entities in the free trade zone within a border economic zone must follow customs procedures at the supervisory Sub-department of Customs of the free trade zone when exporting and importing goods;

b) Inland entities that enter into export, import contracts with entities in the free trade zone within a border economic zone may follow customs procedures at the most convenient Sub-department of Customs.

3. Goods taken to a free trade zone within a border economic zone from abroad must undergo customs procedures and apply tax and finance polices that are applied to such border economic zone.

Where an entity imports goods as fixed assets of a project of investment in a free trade zone within a border economic zone, such goods must be suitable for the field of investment, scale, and purposes of the project, and must be used for such purposes only.

In case an entity imports materials/supplies to serve manufacturing, processing, recycling, assembly in a free trade zone within a border economic zone, the materials/supplies shall be managed and accounted for in accordance with regulations applied to EPEs prescribed in Article 60 of this Circular.

4. When taking goods mentioned in Clause 1 of this Article to a free trade zone within a border economic zone from other sectors or from in land and goods traded among free trade zones, customs procedures are similar to indirectly exported goods prescribed in Article 86 of this Circular.

5. Goods exported to abroad from a free trade zone

a) Goods exported from a free trade zone to abroad shall follow corresponding customs procedures that suit the export purpose;

b) Where goods are imported from abroad or inland and then exported at is to abroad, the number and date of the declaration of imported goods or VAT invoice or sale invoice must be written on the declaration of exported goods.

6. Goods exported to inland from a free trade zone within a border economic zone:

a) Goods exported to inland from a free trade zone must follow customs procedures, except for goods on the list of goods subject to tax upon import from abroad to free trade zones within border economic zones as prescribed by the Ministry of Finance;

b) Customs procedures shall comply with Chapter II this Circular. In order for the inland entity to calculate tax payable when following import procedure, the entity in the free trade zone shall follow the instructions below:

b.1) In case of goods manufactured, processed, recycled, or assembled in a free trade zone without using materials/supplies imported from abroad, the declaration of exported goods must specify that goods are manufactured from domestic materials/supplies;

b.2) In case of goods manufactured, processed, recycled, or assembled in a free trade zone using materials/supplies imported from abroad, the entity in the free trade zone must calculate and amount of imported materials that form the products being exported to inland (form 23/NLNK-PTQ/GSQL in Appendix V enclosed herewith) and specify that goods are made of imported materials/supplies on the declaration of exported goods;

b.3) If customs procedures for taking goods to the free trade zone have been completed and then goods are exported at ease to inland, customs procedures are similar to those for indirectly exported goods prescribed in Article 86 of this Circular. The declaration of exported goods must

specify that goods are exported at is, the number and date of the corresponding customs declaration;

b.4) The entity in the free trade zone must provide the inland enterprise with sufficient documents and data for the inland enterprise to calculate tax payable.

7. Goods processing between entities in free trade zones and inland entities

Customs procedures are similar to those applied to goods processing between EPEs and inland entities prescribed in Article 76 of this Circular. The inland entities shall follow customs procedures at the supervisory Sub-department of Customs of free trade zones.

8. Customs supervision of goods delivered to and dispatched from free trade zones

a) The free trade zone must be separated from the outside (except for Lao Bao Special Economic Zone in Quang Tri province and Cau Treo Border Economic Zone in Ha Tinh province to which regulations of the Prime Minister apply) and have customs control gates in order to monitor goods delivered to and dispatched from free trade zones;

b) Goods delivered to and dispatched from free trade zones, goods transported imported to inland or exported to abroad through free trade zones must go through customs control gates and supervised by the customs;

c) When going through a free trade zone, goods imported from abroad to inland or goods exported from inland to abroad must stick to the route provided by the supervisory customs authority and management board of the free trade zone when passing.

9. Other instructions of the Ministry of Finance shall apply to the sale of tax-free goods to tourists that visit free trade zones within border economic zones.

Article 91. Customs management of goods delivered to and dispatched from bonded warehouses

1. Customs procedures for sending goods to a bonded warehouse from abroad

a) The declarant shall:

a.1) Complete the declaration of imported goods according to Appendix II and the declaration of transport of mixed goods as prescribed in Point a Clause 2 Article 51 of this Circular.

In case of paper-based customs declaration as prescribed in Clause 2 Article 25 of Decree No. 08/2015/NĐ-CP, the declarant shall complete and submit 02 original copies of the declaration of imported goods (form HQ/2015/NK in Appendix IV enclosed herewith);

a.2) Submit 01 photocopy of the bill of lading or an equivalent transport document as prescribed by law (except for goods imported through a land checkpoint)

a.3) Submit 01 photocopy of the certificate of temporary import number issued by the Ministry of Industry and Trade for goods temporarily imported for re-export subject to conditions prescribed by the Ministry of Industry and Trade when they are sent to the bonded warehouse from abroad before exporting to another country;

a.4) Submit 01 original copy of the notice of exemption from inspection or the notice of inspection result issued by an specialized agency as prescribed by law.

Where single-window system is applied, the notice of inspection result or exemption from inspection by a specialized agency shall be sent electronically via the National Single-window Information Portal. The declarant is not required to submit it while following customs procedures;

a.5) Update information about goods sent to the bonded warehouse on the goods inventory software on the bonded warehouse owner and send it to the supervisory Sub-department of Customs of the bonded warehouse.

b) The supervisory Sub-department of Customs of the bonded warehouse shall carry out customs procedures prescribed in section 3 Chapter II of this Circular and perform the tasks mentioned in Point d.1.1 Clause 2 Article 51 of this Circular;

c) The day on which goods are delivered to the bonded warehouse is the day on which the information about arrival of imported goods is updated by the customs authority on the System;

d) Goods that are sent to the bonded warehouse before being exported to another country where the certificate of temporary import number issued by the Ministry of Industry and Trade is required may only be sent to the bonded warehouse in the province where the checkpoint of import or checkpoint of export is located;

dd) Goods sent to the bonded warehouse from abroad may only be imported through the checkpoints prescribed by the Prime Minister and the Ministry of Industry and Trade.

2. Customs procedures for sending goods to a bonded warehouse from a free trade zone or inland

a) The declarant shall:

a.1) Perform the tasks prescribed in Point a Clause 1 Article 52 of this Circular when registering the declaration of goods exported from inland or a free trade zone;

a.2) Update information about goods sent to the bonded warehouse on the goods inventory software on the bonded warehouse owner and send it to the supervisory Sub-department of Customs of the bonded warehouse.

b) The supervisory Sub-department of Customs shall:

b.1) Access and print information about the declaration of exported goods granted customs clearance on the System in order to monitor goods delivered to the bonded warehouse and kept therein;

b.2) Perform the tasks prescribed in Point c.1.2 Clause 2 Article 51 of this Circular.

c) The day on which goods are sent to the bonded warehouse is the day on which the customs authority confirms on the System that goods have passed through the customs controlled area.

3. Customs procedures for sending goods to a bonded warehouse for exporting to abroad:

a) The declarant shall:

a.1) Submit 01 photocopy of the goods dispatch note as prescribed by regulations of law on accounting specifying the numbers of corresponding declarations of received goods;

a.2) Update information about goods sent to the bonded warehouse on the goods inventory software on the bonded warehouse owner and send it to the supervisory Sub-department of Customs of the bonded warehouse.

a.3) Make a declaration of independent transport of goods under customs supervision as prescribed in Clause 1 Article 51 of this Circular.

b) The supervisory Sub-department of Customs shall:

b.1) Compare information about goods dispatched from the bonded warehouse on the dispatch note and information in the inventory software;

b.2) Perform the tasks prescribed in Point c.3 Clause 1 Article 51 of this Circular and receive replies from the Sub-department of Customs at the checkpoint of export.

c) Goods exported to abroad from the bonded warehouse may only be exported through the checkpoints prescribed by the Prime Minister and the Ministry of Industry and Trade;

d) After goods are taken in the customs controlled area at the checkpoint of export from a bonded warehouse, the Sub-department of Customs at the checkpoint of export shall monitor goods until they are actually exported from Vietnam's territory. If goods are not exported by 15 days from the day on which goods arrive at the checkpoint of export or the checkpoint of export is changed, the Sub-department of Customs at the checkpoint of export must notify the supervisory Sub-department of Customs of the bonded warehouse for monitoring in cooperation. Goods exported through checkpoint by road or by river shall be confirmed that they have passed through the customs controlled area at the checkpoint of export.

4. Customs procedures for importing goods to inland or a free trade zone from the bonded warehouse:

a) The declarant shall:

a.1) Update information about goods dispatched from the bonded warehouse on the goods inventory software on the bonded warehouse owner and send it to the supervisory Sub-department of Customs of the bonded warehouse;

a.2) Perform the tasks prescribed in Point a Clause 2 Article 52 of this Circular at the supervisory Sub-department of Customs of the bonded warehouse.

b) The supervisory Sub-department of Customs shall:

b.1) Compare information about goods dispatched from the bonded warehouse on the declaration of goods imported to inland or free trade zone on the System with information in the inventory software; print and keep documents together with documents about goods delivered to the bonded warehouse;

b.2) Perform the tasks prescribed in Point d.1.2 Clause 2 Article 51 of this Circular.

c) The following goods must not be imported to inland from a bonded warehouse:

c.1) Goods that are required to follow import procedures at a checkpoint;

c.2) Goods on the list of imported goods that must not be moved to another custom post outside the checkpoint area or vice versa prescribed by the Prime Minister, except for materials/supplies, machinery, and equipment imported to serve manufacturing, processing of goods, and goods manufactured or processed in Vietnam.

5. Customs procedures for sending goods from a bonded warehouse to another:

a) Goods that are removed from the old bonded warehouse shall follow customs procedures prescribed in Clause 4 of this Article;

b) Goods that are delivered to the new bonded warehouse shall follow customs procedures prescribed in Clause 1 of this Article;

c) The period of goods retention in the bonded warehouse begins from the day on which goods are delivered to the old bonded warehouse.

6. With regard to goods transported from a checkpoint, from a bonded warehouse to another, from another location to a bonded warehouse and vice versa that are under the management of the same Sub-department of Customs, the monitoring of goods being delivered between such locations shall be decided by Customs Department of the province.

7. If violations of law are suspected, the Director of the supervisory Sub-department of Customs of the bonded warehouse shall decide whether to carry out a physical inspection before goods are

delivered to or dispatched from the bonded warehouse. The inspection result shall be written on the notice of inspection result (form No. 06/PGKQKT/GSQL in Appendix V enclosed herewith).

8. The transfer of ownership of goods in bonded warehouse shall be carried out by goods owner upon sale of goods as prescribed in Clause 8 Article 3 of the Law on Commerce. The owner of the bonded warehouse shall send the supervisory Sub-department of Customs a notification of the transfer of ownership of goods in the bonded warehouse. Procedures for delivering, dispatching goods are not required. The period of goods retention in the bonded warehouse begins from the day on which goods are delivered to the bonded warehouse according to the bonded warehouse lease contract between the owner of the bonded warehouse and the former goods owner.

9. Reporting bonded warehouse inventory:

a) The bonded warehouse owner shall monitor and finalize bonded warehouse lease contracts with goods owners. On every 15th of the first month of the next quarter, the bonded warehouse owner shall send the supervisory Sub-department of Customs a written notification of goods condition and operation of the bonded warehouse (form 24/BC-KNQ/GSQL in Appendix V enclosed herewith); the Sub-department of Customs shall send a summary report to Customs Department on the 25th of the first month of the quarter;

b) The supervisory Sub-department of Customs of the bonded warehouse is responsible for monitoring the warehouse inventory on the basis of customs declarations of goods sent to the bonded warehouse and the inventory software of the bonded warehouse owner; time limit for retention of goods in the bonded warehouse, compare with the notification of goods condition and operation of the bonded warehouse. If the quantity of goods in inventory is suspected, the Director of the Sub-department of Customs shall decide a site inspection, compare with information on the inventory software of the bonded warehouse owner.

10. Every year, the Customs Department of the province shall inspect the operation of bonded warehouses and the adherence to law of bonded warehouse owners, then submit the inspection result to the General Department of Customs. Customs Departments shall carry out surprise inspections if violations of law are suspected.

Article 92. Customs supervisions applied to goods delivered to, dispatched from CFS, and services therein

1. Exported goods sent to a CFS

According to information about the export shipment sent by the Sub-department of Customs where the customs declaration is registered, the supervisory Sub-department of Customs of the CFS shall receive the shipment, compare with information on the System in order to send goods to the CFS.

At the request of the Sub-department of Customs where the customs declaration is registered, the customs official in charge of the CFS shall carry out physical inspection of goods as prescribed in Clause 11 Article 29 of this Circular.

2. Imported goods sent to a CFS

According to information on the declaration of transport of goods under customs supervision approved by the Sub-department of Customs at the checkpoint and the bill of lading presented by the CFS operator, the customs official shall monitor goods being delivered to the CFS and perform the tasks prescribed in Point c.4 Clause 1 Article 51 of this Circular.

3. Supervision of services provided in the CFS

Services provided in the CFS must be supervised by the customs. When consolidating export shipments into one container, the provider of LCL consolidation services must compile a list of consolidated cargo (form No. 25/DMXK-CFS/GSQL in Appendix V enclosed herewith). When the consolidation is completed, the customs official shall make a confirmation on the list, return 01 copy of it to the provider of LCL consolidation services, and keep 01 copy at the customs authority.

4. Management of goods sent to the CFS

a) After the quantity goods on the Master Bill are completed imported to inland or completely exported to another country, the provider of LCL consolidation services shall monitor goods according to each Master Bill;

b) With regard to exported goods sent to the CFS, according to the list of consolidated cargo, the provider of LCL consolidation services shall monitor the list of overdue goods in the CFS as prescribed in Clause 3 Article 61 of the Law on Customs.

5. Reporting CFS inventory:

On the 5th of the first month of the next quarter, the provider of LCL consolidation services shall send the supervisory Sub-department of Customs of the CFS a written notification of goods condition and operation of the CFS (form No. 26/NXT-CFS/GSQL in Appendix V enclosed herewith). If the provider of LCL consolidation services uses inventory software which is connected with the customs, the supervisory Sub-department of Customs of the CFS shall access the inventory report on the software.

Article 93. Customs procedures applied to exported/imported goods on an all-inclusive declaration

1. Customs procedures for exported/imported goods that are delivered before the customs declaration is registered:

a) Cases of application:

- a.1) Exported, importer electricity;
- a.2) Goods sold in international area at international airports (except tax-free goods);
- a.3) Goods provided for passengers on international flights;
- a.4) Aviation fuel for departing aircraft;
- a.5) Indirectly exported goods that are delivered many times in a day or a month as prescribed in Clause 6 Article 86 of this Circular.

b) The declarant shall:

b.1) Complete the customs declaration according to Appendix II enclosed herewith;

b.2) Submit a customs dossier as prescribed in Article 16 of this Circular which contains documents certifying every delivery of goods (sale invoice, commercial invoice, goods dispatch invoice, etc.); compile a list of documents certifying deliveries of goods (form No. 27/THCT-KML/GSQL in Appendix V enclosed herewith) and submit them to the customs authority while following customs procedures. With regard to exported/imported electricity, the declarant shall submit documents proving electricity consumption in the month on the first day of the next month; customs procedures for provision of aviation fuel for outbound aircraft must be completed within 30 days.

c) After the declarant submits the customs dossier by the deadline advertisement prescribed in Point b of this Clause, the customs authority shall carry out customs procedures according to section 3 Chapter II of this Circular and shall not carry out physical inspection of goods.

2. Customs procedures for exported/imported goods that are delivered after the customs declaration is registered:

a) Goods that are delivered after the customs declaration is registered must satisfy the conditions in Clause 8 Article 25 of Decree No. 08/2015/NĐ-CP.

b) The declarant shall:

b.1) Make the customs declaration and submit the customs dossier prescribed in Article 16 of this Circular; submit 01 photocopy of the contract, export/import license issued by a competent authority (if such licensed is required by law) and present the original for comparison and issuance of the monitoring sheet;

b.2) The previous customs declaration that was granted customs clearance may be used to obtain customs clearance for each shipment;

b.3) Make additional declaration if accurate information about the shipment is received after the shipment is completely delivered.

c) The customs authority shall:

c.1) Receive, register the customs dossier;

c.2) Make a logbook of exported/import goods (form No. 28/STD/GSQL in Appendix V enclosed herewith);

c.3) Carry out customs procedures for each shipment of export/import of goods and write the quantity of each shipment in the logbook;

c.4) Compare the logbook with additional declaration after the shipment is completely exported/imported in order to confirm the total quantity of exported/imported goods.

3. Customs procedures for exported/import goods on an all-inclusive declaration shall be followed at one Sub-department of Customs.

Article 94. Customs procedures for trading, exchange of goods of border residents

1. Any citizen who has a permanent residence in the bordering area of Vietnam and China, Laos, or Cambodia may trade in and/or exchange goods on the list of goods manufactured in bordering countries that are imported/exported in the form of trading or exchanging by border residents issued by the Ministry of Industry and Trade.

If the goods traded/exchanged are not on the list of the quantity of goods or exceeds the allowance prescribed by relevant regulations of law, the owners of goods must follow customs procedures for import of goods as prescribed in this Circular.

2. The Prime Minister's Decision on management of border trading with bordering countries and its guiding documents shall apply to the trading, exchange of goods of border residents, and policies thereon. The Ministry of Finance shall specify customs procedures for these activities.

Chapter V

HANDLING REFUSAL OF GOODS

Article 95. Refusal of goods

1. The consignee written on the bill of lading may refuse to receive goods in the following cases:

a) Goods are not conformable with the sale contract as prescribed in Article 39 of the Law on Commerce;

b) Goods are not conformable with the bonded warehouse lease contract or the consignor does not adhere to the terms of the bonded warehouse lease contract.

2. The customs authority shall not impose penalties if the consignee refuses to receive goods before the customs declaration classification result is given. The consignee that refuses to receive goods after the result is given shall incur penalties as prescribed by law.

Article 96. Handling refused goods

1. If the consignee refuses to receive goods because the consignor fails to adhere to the sale contract or bonded warehouse lease contract, the consignee shall submit a set of documents to customs authority which consists of:

- a) A written notification of refusal of goods, specifying the reasons and solutions (re-export, destruction, confiscation, or selling at auction);
- b) Documents proving that the consignor fails to adhere to the sale contract or bonded warehouse lease contract;
- c) The notification and request for settlement of the consignor (if any).

If goods are sent to a wrong address, the consignee shall send the customs authority a written notification of refusal of goods.

2. Places for notifying refusal of goods:

- a) If goods are under customs supervision at a checkpoint, the consignee shall notify the Sub-department of Customs at the checkpoint;
- b) If goods are already transported to a bonded warehouse, CFS, or a customs place outside the checkpoint area, the consignee shall notify the Sub-department of Customs where the customs declaration is registered.

3. Based on documents submitted by the consignee, the Sub-department of Customs where goods are supervised shall cooperate with the customs control team in carrying out a physical inspection of the entire shipment in order to classify and handle it as prescribed in Clause 4 of this Article.

4. Classification and handling

Goods refused by the consignee written on the bill of lading shall be classified and handled in accordance with the Circular of the Minister of Finance on handling of unclaimed goods in customs controlled areas. Additional instructions:

- a) In case refused goods are re-exported: Based on the documents submitted by the consignee, the Sub-department of Customs where goods are supervised shall supervise re-export of goods from Vietnam's territory right at the checkpoint of import;

b) In case refused goods are destroyed: The destruction shall be carried out by the Customs Department of the province. The destruction cost shall be deducted from deposit paid by the consignee's or the incurred by the bonded warehouse owner;

c) If refused goods are confiscated and liquidated: The Customs Department of the province shall issue the decision on confiscation and liquidation. The revenues for liquidation after deducting costs shall be paid to state budget.

Chapter VI

PROCEDURES FOR ESTABLISHMENT, RELOCATION, EXPANSION, CONTRACTION, SHUTDOWN OF CUSTOMS PLACES, INLAND GOODS INSPECTION PLACES; ALS

Article 97. Customs place at an ICD

1. Conditions for establishment:

a) The customs place is on the master plan for ICD system announced by the Prime Minister;

b) The area is 10 hectares or over;

c) The working conditions of the customs are satisfactory, such as the office building, goods inspection site, equipment serving customs supervision and inspection, exhibit storage;

d) The depot area must be separated from surrounding areas by sturdy fences, have a camera system, electronic scales, and other equipment serving customs clearance of goods. Goods entering, leaving the depot area must be monitored by a computer system connected with the customs.

2. Application for establishment:

a) A written application form No. 03 in Appendix IX enclosed herewith: 01 original copy;

b) A written approval for establishment of the ICD granted by the Ministry of Transport (unless the ICD has been included in the master plan by the Ministry of Transport): 01 original copy;

c) A Certificate of Business Registration that covers storage services: 01 photocopy.

3. Establishment procedures:

a) The application shall be sent to the Customs Department of the province in which the customs place is located;

b) Within 01 working days from the day on which valid and sufficient documents are received, the Customs Department shall:

b.1) Examine the documents:

b.2) Carry out a site inspection of the depot area;

b.3) Assess fulfillment of the conditions prescribed in Clause 1 of this Article; send a proposal and report together with the application to the General Department of Customs.

c) Within 10 working days from the day on which the report and application are received, the General Department of Customs must complete appraising, reporting, and requesting the Minister of Finance to issue a decision on establishment of the customs place. If any of the condition is not fulfilled, the General Department of Customs shall notify the Customs Department and the applicant in writing.

4. Shutdown of a customs place at an ICD.

a) Cases of shutdown:

a.1) The shutdown is requested by the Customs Department of the province because the conditions for customs supervision and inspection and other conditions for establishment in Clause 1 of this Article are not satisfied;

a.2) The shutdown is requested in writing by the enterprise;

a.3) The customs place is not put into operation within 06 months from the issuance of the decision on establishment without satisfactory explanation;

a.4) The enterprise commits 03 customs offenses related to management, supervision of goods at the customs place within 01 year which results in fines that are beyond the competence to impose of the Director of the Sub-department of Customs.

b) The customs declaration shall request the Ministry of Finance to issue a decision to shut down the customs place based on the report and proposal of the Customs Department or the written request of the enterprise.

5. Any enterprise that wishes to contract, expand, or relocate the customs place at the ICD shall submit an application to Customs Department of the province if the conditions prescribed in Clause 1 of this Article are satisfied. The application consists of:

a) A written request for approval for relocation, expansion, or contraction: 01 original copy;

b) The diagram of the depot area after relocation, expansion, or contraction: 01 photocopy;

c) Documents proving the right to use the expanded depot area or the new depot area (in case of relocation).

Procedures for relocation, expansion, contraction are similar to procedures for establishment of a customs place at the ICD prescribed in Clause 3 of this Article. The expansion, contract of area of the customs place shall be decided by the General Department of Customs.

6. If the name of the owner of the customs place is changed according to the Certificate of Business Registration, the enterprise shall send a written notification to the supervisory Sub-department of Customs of the customs place.

7. If the ownership of the customs place is transfer, the old customs place shall be shutdown and the new customs place shall be established in accordance with this Article.

Article 98. Customs place outside checkpoint area

1. Conditions for establishment:

a) The customs place is in the master plan of the Ministry of Finance for the network of customs places outside checkpoint area;

b) The area is 01 hectares or over;

c) The working conditions of the customs such as the office building, goods inspection site, equipment (electronic scales, scanners, etc.), exhibit storage are satisfactory;

d) The depot area must be separated from surrounding areas by sturdy fences, have a camera system, electronic scales, and other equipment serving quick customs clearance of goods. Goods entering, leaving the depot area must be monitored by a computer system connected with the customs.

2. Application for establishment:

a) A written application form No. 03 in Appendix IX enclosed herewith: 01 original copy;

a) A written approval issued by the People's Committee of the province in which the customs place is located: 01 original copy;

c) A Certificate of Business Registration that covers storage services: 01 photocopy.

3. The establishment, shutdown, relocation, expansion, contraction, transfer, or change of name of owner of a customs place outside checkpoint area are similar to those of the customs place at an ICD prescribed in Clauses 3, 4, 5, 6, 7, Article 97 of this Circular.

Article 99. ALS

1. Conditions for establishment:

a) ALSs shall be established in:

a.1) Areas adjacent to civil international airports;

a.2) Industrial parks, hi-tech zones, export-processing zones.

The distance from the said areas to an civil international airport shall not exceed 50 km.

b) The minimum area is 2,000 m² (including depot area and auxiliary works);

c) The ALS owner is a enterprise established under the law which has a system of storage for exported or imported goods in a civil international airport that is not longer than 50 km from the ALS;

d) The working conditions of the customs such as the office building, goods inspection site, equipment (electronic scales, scanners, etc.), exhibit storage are satisfactory;

dd) The depot area is separated from surrounding areas by study fences; exported goods and imported goods are stored in separate places;

e) The owner has a system of accounting records and IT applications to manage the inventory. The warehouse must have a surveillance camera system that meet standards for supervision of goods inventory of the customs.

2. Application for establishment:

a) A written application form No. 03 in Appendix IX enclosed herewith: 01 original copy;

b) A written approval for establishment of the ALS granted by the Ministry of Transport: 01 original copy;

c) A written approval for location where the ALS is built granted by the People's Committee of the province: 01 original copy;

d) A Certificate of Business Registration that covers storage services: 01 photocopy;

dd) Documents proving the legal land use right: 01 photocopy.

3. The establishment, shutdown, relocation, expansion, contraction, transfer, or change of name of owner of an ALS are similar to those of the customs place at an ICD prescribed in Clauses 3, 4, 5, 6, 7, Article 97 of this Circular.

Article 100. Concentrated goods inspection sites

1. Conditions for establishment:

Every concentrated goods inspection site invested by a customs authority or depot operator must satisfy the conditions below:

a) The inspection site that belongs to a particular Sub-department of Customs must be adjacent to the Sub-department of Customs (hereinafter referred to as “separate inspection site”); The good inspection site shared by multiple Sub-departments of Customs must not be longer than 20 km away from any Sub-department of Customs;

b) The minimum area of a separate inspection site is 5,000 m², shared inspection site 10,000 m²;

c) Facilities and equipment:

c.1) The working conditions of the customs such as the office building, goods inspection site, equipment (electronic scales, scanners, etc.), exhibit storage are satisfactory;

c.2) The depot area must be separated from surrounding areas by sturdy fences and have surveillance cameras;

c.3) Goods entering, leaving the depot area must be monitored by a computer system connected with the customs.

2. Application for establishment:

a) If the concentrated inspection site is invested by the customs authority:

a.1) A written application form No. 03 in Appendix IX enclosed herewith: 01 original copy;

a.2) A certificate of land use right (LUR): 01 photocopy.

b) If the concentrated inspection site is invested by an enterprise:

b.1) A written application form No. 03 in Appendix IX enclosed herewith: 01 original copy;

b.2) Documents proving the LUR : 01 photocopy;

b.3) A Certificate of Business Registration that covers storage services: 01 photocopy;

3. Establishment procedures:

a) The application shall be sent to the Customs Department of the province in which the concentrated inspection site is located;

b) Within 01 working days from the day on which valid and sufficient documents are received, the Customs Department shall:

b.1) Examine the documents:

b.2) Carry out a site inspection of the depot area;

b.3) Assess fulfillment of the conditions prescribed in Clause 1 of this Article; send a proposal and report together with the application to the General Department of Customs.

c) Within 05 working days from the day on which the report and application are received, the General Department of Customs shall consider issuing a decision on establishment of the concentrated inspection site. If any of the condition is not fulfilled, the General Department of Customs shall notify the Customs Department and the applicant in writing.

4. Shutdown of a concentrated inspection site

a) Cases of shutdown:

a.1) The shutdown is requested by the Customs Department of the province because the conditions for customs supervision and inspection and other conditions for establishment in Clause 1 of this Article are not satisfied;

a.2) The shutdown is requested in writing by the enterprise;

a.3) The inspection site is not put into operation within 06 months from the issuance of the decision on establishment without satisfactory explanation;

a.4) The enterprise commits 03 customs offenses related to management, supervision of goods at the concentrated inspection site within 01 year which results in fines that are beyond the competence to impose of the Director of the Sub-department of Customs.

b) The General Department of Customs shall decide shutdown of the concentrated inspection site based on the report and proposal of the Customs Department or the written request of the enterprise.

5. Any enterprise that wishes to contract, expand, relocate, or transfer the ownership of the concentrated inspection site, shall submit an application to Customs Department of the province if the conditions prescribed in Clause 1 of this Article are satisfied. The application consists of:

a) A written request for approval for relocation, expansion, or contraction: 01 original copy;

b) The diagram of the depot area after relocation, expansion, or contraction: 01 photocopy;

c) Documents proving the right to use the expanded depot area or the new depot area (in case of relocation).

Procedures for relocation, expansion, contraction are similar to procedures for establishment of a concentrated inspection site prescribed in Clause 3 of this Article. The expansion, contract of area of the inspection site shall be decided by the Customs Department of the province.

6. If the name of the owner of the concentrated inspection site which was permitted to be established by the General Department of Customs is changed according to the Certificate of

Business Registration, the enterprise shall send a written notification to the supervisory Sub-department of Customs of the inspection site.

7. In case a concentrated inspection site is relocated, the old site shall be shut down and the new site shall be established as prescribed in this Article.

Article 101. Places for gathering, inspecting exported or imported goods at the border (hereinafter referred to as “border gathering site”)

1. Conditions for establishment:

- a) The place is located within a border economic zones or checkpoint area under the management of the customs;
- b) The minimum area is 5.000 m²;
- c) The working conditions of the customs such as the office building, goods inspection site, equipment (electronic scales, scanners, etc.), exhibit storage are satisfactory;
- d) The depot area must be separated from surrounding areas by sturdy fences and have surveillance cameras;
- dd) Goods entering, leaving the depot area must be monitored by a computer system connected with the customs.

2. Application for establishment:

- a) A written application form No. 03 in Appendix IX enclosed herewith: 01 original copy;
- b) Documents proving the LUR : 01 photocopy;
- c) A Certificate of Business Registration that covers storage services: 01 photocopy.

3. The establishment, shutdown, relocation, expansion, contraction, transfer or change of name of owner of an gathering site are similar to those of the inspection sites prescribed in Clauses 3, 4, 5, 6, 7, Article 100 of this Circular.

Article 102. On-site goods inspection area

1. The on-site inspection shall be carried out where machinery, equipment, materials, components, supplies imported for construction of the factory, building, for execution of a project, serving manufacturing of goods or exported goods are gathered.

2. Establishment procedures:

a) The enterprise shall send the Customs Department of the province in which the construction or factory is located an application for recognition of an on-site inspection area which is enclosed with the diagram of area;

b) Within 05 working days from the day on which sufficient documents are received, the Customs Department shall examine the documents, carry out a site inspection, and issue a decision on recognition which is effective for 02 years from its issuance date. If the enterprise wishes to extend this period upon expiration, Customs Department shall consider extending it for not more than 02 years.

If the proposed location does not satisfy customs inspection requirements, the enterprise must be notified in writing.

3. The enterprise shall prepare the site and inspection equipment at the construction site/factory, and only use goods for manufacturing or construction after they are granted customs clearance by the customs.

4. After the construction, installation is completed or the factory no longer needs the customs authority to carry out physical inspection of goods at such area, the enterprise must send the Customs Department of the province a written request for shutdown of the inspection area.

Chapter VII

TAX EXEMPTION, CONSIDERATION OF TAX EXEMPTION, TAX REFUND, AND OTHER REGULATIONS ON TAXES ON EXPORTED OR IMPORTED GOODS

Section 1. Cases of tax exemption, procedures for tax exemption

Article 103. Cases of tax exemption

1. Goods temporarily imported or temporarily exported to participate in fairs, exhibitions, product introduction; machinery, equipment, professional instruments temporarily imported or temporarily exported serving conventions, seminars, feasibility study, sports competition, art performances, medical examination and treatment; components and spare parts for replacement, repair of sea-going vessels, foreign aircraft; machinery and equipment temporarily imported to serve research and development of products; temporarily imported machinery, equipment, professional instruments that are eligible for tax exemption according to Clause 17 of this Article or might be eligible for tax refund according to Clause 9 Article 114 of this Circular shall be exempt from import tax upon temporary import and exempt from export tax upon re-export, or exempt from export tax upon temporary export and exempt from import tax upon re-import.

Tax shall be charged if goods are not re-exported or re-imported by the deadline prescribed in Decree No. 08/2015/NĐ-CP.

2. Belongings of Vietnamese entities or foreign entities brought into Vietnam or to abroad within the tax-free allowance upon their entry/exit, including:

- a) Belongings carried along by foreign entities when they are permitted to reside or work in Vietnam at the invitation of competent authorities or when they leave Vietnam at the end of the period of residence/work in Vietnam;
- b) Belongings of Vietnamese entities that are permitted to take them abroad for business and work, and are imported back in Vietnam at the end of the period;
- c) Belongings carried along by Vietnamese families/individuals who are residing overseas and permitted to reside in Vietnam or Vietnamese families/individuals permitted to reside overseas; belongings carried along by foreigners when they are permitted to reside in Vietnam or when they are permitted to reside overseas.

Among the cars, motorbikes carried along by families/individuals when they are permitted to reside in Vietnam, tax exemption is only granted to one piece of a type.

Belongings shall be identified in accordance with Clause 5 Article 5 of the Law on Export and import tax and its guiding documents.

3. Exported or imported goods of foreign entities provided with diplomatic immunity and privileges in Vietnam shall comply with the Ordinance on diplomatic immunity and privileges of diplomatic missions, consular offices, representative agencies of international organizations, and its guiding documents.

4. Goods exported or imported for processing under contracts are exempt from export tax, import tax as prescribed in Clause 4 Article 12 of Decree No. 87/2010/NĐ-CP, including:

a) Goods exempt from tax under processing contracts include:

a.1) Materials/supplies imported, exported for processing;

a.2) Imported, exported supplies that are used during the manufacturing or processing (paper, chalk, pen, marker, pins, printing ink, glue brush, printing frame, polishing oil, etc.);

a.3) Goods imported, exported as samples serving processing operations;

a.4) Machinery and equipment imported, exported serving processing operations as agreed in the processing contract. They must be re-export or re-import upon the expiration of the processing contract. Otherwise, tax must be declared and tax as prescribed. If they are retained as gifts, export tax/import tax shall be exempt as instructed in Clause 4 Article 107 of this Circular;

a.5) Processed products that are re-exported (if export tax is incurred);

a.6) Finished products imported to be attached on processed products or packed with processed products as full packs to be exported; components, parts imported serving repair of processed products are eligible for tax exemption as if materials/supplies imported for inward processing if all of the conditions below are satisfied:

a.6.1) They are mentioned in the processing contract or its appendices;

a.6.2) They are managed as if materials/supplies imported for inward processing.

a.7) Goods imported for inward processing and permitted to be destroyed in Vietnam as prescribed by law, provided procedures prescribed in this Circular are completed.

b) With regard to materials/supplies that are manufactured or purchased in Vietnam by the contract manufacturer and subject to export tax, the declarant shall declare, calculate export tax on such materials/supplies on the declaration of processed goods to be exported (including exported products in the form of indirect export).

c) Goods exported to abroad for outward processing shall be exempt from export tax. When they are re-imported to Vietnam, import tax on compensating products must be paid (tax shall not be imposed on the value of materials/supplies exported under the processing contract). Import tax is imposed according to the quantity of compensating products that are imported, their origins which are determined according to regulations on origins of the Ministry of Industry and Trade;

d) Import tax on materials/supplies, machinery, and equipment and compensating products used as payment for processing by the foreign party shall be charged upon their import.

dd) Import tax on waste and rejects within the use norm, consumption commercial housing, and rate of loss that satisfy requirements in Article 30 of Decree No. 187/2013/NĐ-CP and are agreed in the processing contract is similar to waste, rejects imported as materials/supplies for manufacturing of goods for export prescribed in Article 71 of this Circular.

5. Exported or imported goods within the tax-free allowance of individuals entering, exiting Vietnam; goods within tax-free allowance sent by expressed mail as prescribed by the Government and the Prime Minister.

a) Exported or imported goods within the tax-free allowance for luggage of individuals entering, exiting Vietnam:

a.1) For exiting individuals: Except for the goods on the list of goods banned from export of goods subject to conditions for export, tax-free allowance is not imposed upon other items in the luggage of an individual exiting Vietnam;

a.2) Individuals entering Vietnam:

a.2.1) Tax-free allowance shall comply with regulations of the Prime Minister on tax-free allowance imposed upon gifts and luggage of individuals entering, exiting Vietnam;

a.2.2) If goods imported in excess to the tax-free allowance shall incur import tax. If the total tax payable is smaller than VND 100,000, it will be exempt. The entering individual may select certain items in the luggage to pay tax;

b) Goods sent by express mail:

Tax shall be exempt if the value of goods sent by express mail is within the tax-free allowance according to regulations of the Prime Minister on value of tax-free allowance for imported goods sent by express mail. If imported goods exceed the tax-free allowance, tax on the whole shipment shall be paid. If tax payable on the whole shipment is smaller than VND 50,000, it will be exempt.

6. Goods traded, exchanged by border residents are exempt from export tax and import tax if they do not exceed the tax-free allowance. Otherwise, the quantity goods that exceeds the allowance shall incur tax.

The Prime Minister shall issue regulations on border residents and tax-free allowance for goods traded/exchanged by border residents.

7. Goods imported as fixed assets of projects of investment in the fields eligible for preferential import tax prescribed in Appendix I of the Government's Decree No. 87/2010/NĐ-CP or administrative divisions eligible for preferential import tax prescribed in Decree No. 218/2013/NĐ-CP, Decree No. 91/2014/NĐ-CP, and Decree No. 53/2010/NĐ-CP; projects of investment funded by ODA exempt from import tax include:

a) Machinery and equipment that:

a.1) suit the field, target, and scale of the project; and

a.2) comply with regulations on fixed assets in Circular No. 45/2013/TT-BTC dated April 25, 2013 of the Ministry of Finance;

b) Means of transport in a technological line that cannot be manufactured in Vietnam; worker shuttle vehicles including passenger vehicles with 24 seats or more and watercraft:

b.1) The list of dedicated means of transport mentioned in this Point shall be compiled by the Ministry of Planning and Investment;

b.2) The list or criteria for identification of means of transport in technological lines mentioned in this Point shall be compiled by the Ministry of Science and Technology.

c) Components, parts, detachable parts, fittings, molds, accessories that are used for assembly of complete machinery, equipment, and means of transport eligible for tax exemption mentioned in Point a Decree Point b of this Clause shall be eligible for tax exemption if :

c.1) They are components, parts of machinery, equipment, and means of transport imported as complete knockdown kits;

c.2) They are components, parts, detachable parts, fittings, molds, accessories used for assembling, connecting machinery and equipment together in order to ensure the normal operation of the system of machinery and equipment.

d) Materials/supplies that cannot be manufactured in Vietnam used for manufacturing of machinery and equipment in technological lines or components, parts, detachable parts, fittings, molds, accessories mentioned in Point c of this Clause that are used for assembly of complete machinery and equipment mentioned in Point a of this Clause.

The list of materials/supplies that can be manufactured in Vietnam which is the basis for granting tax exemption shall be compiled in accordance with regulations of the Ministry of Planning and Investment;

e) Building materials that cannot be manufactured in Vietnam.

The list of building materials that can be manufactured in Vietnam which is the basis for granting tax exemption shall be compiled in accordance with regulations of the Ministry of Planning and Investment.

8. Permissible imported plant varieties, animal breeds serving execution of projects of investment in agriculture, forestry, aquaculture.

The list of permissible imported plant varieties and animal breeds which is the basis for granting tax exemption shall be compiled in accordance with regulations of the Ministry of Agriculture and Rural Development.

9. Tax exemption for imported goods mentioned in Clause 7 and Clause 8 of this Article also applies to project expansion, change or innovation of technology.

10. The first import of goods mentioned in Appendix II enclosed with Decree No. 87/2010/NĐ-CP shall be exempt from tax if they are imported as fixed assets of projects eligible for preferential import tax, ODA-funded projects in construction of hotels, office buildings, apartments for lease, housing, shopping malls, technical services, supermarkets, golf courses, tourist resorts, sports centers, entertainments centers, medical facilities, training institutions, cultural centers, finance, banking, insurance audit, consultancy establishments.

The projects of which imported goods are exempt from tax exemption for the first time as prescribed in this Clause shall not be granted the tax exemption mentioned in other Clauses of this Article.

11. Imported goods serving petroleum activities, including:

a) Machinery and equipment that satisfy the conditions in Point a Clause 7 of this Article; dedicated means of transport serving petroleum activities; worker shuttles including passenger cars with 24 seats or more and watercraft; components, parts, detachable parts, fittings, molds,

accessories that are installed to or used together with the aforesaid machinery, equipment, and dedicated means of transport that satisfy conditions in Point c Clause 7 of this Article.

The list or criteria for identification of dedicated means of transport serving petroleum activities mentioned in this Point shall be compiled by the Ministry of Science and Technology;

b) Supplies serving petroleum activities that cannot be manufactured in Vietnam.

The list of supplies serving petroleum activities that can be manufactured in Vietnam which is the basis for granting tax exemption shall be compiled in accordance with regulations of the Ministry of Planning and Investment;

c) Medical equipment and emergency medicines on oil rigs and floating works confirmed by the Ministry of Health;

d) Office equipment serving petroleum activities;

dd) Other temporarily imported goods serving petroleum activities.

In case the goods mentioned in this Clause are imported by a sub-contractor or another entity, including those imported directly, via entrustment, bidding, via lease and sublease to supply for entities engaged in petroleum exploration and extraction under a petroleum service contract or goods supply contract, they are also exempt from import tax.

12. With regards to goods of shipyards, exported sea-going vessels shall be exempt from export tax. Import tax on the following articles is exempt:

a) Machinery and equipment imported as fixed assets that satisfy the conditions in Point a Clause 7 of this Article;

b) Means of transport in the technological lines as fixed assets.

The list or criteria for identification of means of transport in technological lines mentioned in this Point, which is the basis for granting tax exemption, shall be compiled by the Ministry of Science and Technology;

c) Materials/supplies, semi-finished products serving ship building that cannot be manufactured in Vietnam.

The list of materials/supplies and semi-finished products serving ship building that can be manufactured in Vietnam, which is the basis for granting tax exemption, shall be compiled in accordance with regulations of the Ministry of Planning and Investment.

13. Import tax on materials/supplies that cannot be manufactured in Vietnam and are imported to directly serve production of software programs.

The list of materials/supplies directly serving production of software programs that can be manufactured in Vietnam, which is the basis for granting tax exemption, shall be compiled in accordance with regulations of the Ministry of Planning and Investment.

14. The following goods imported to serve scientific research and technology development shall be exempt from import tax: machinery, equipment, spare parts, supplies, means of transport that cannot be manufactured in Vietnam, technologies unavailable in Vietnam; documents, books, newspapers, academic journals, and digital sources of information about science and technology.

The list of machinery, equipment, spare parts, supplies, means of transport directly serving scientific research and technology development that can be manufactured in Vietnam, which is the basis for granting tax exemption, shall be compiled in accordance with regulations of the Ministry of Planning and Investment.

15. Import tax on materials/supplies and components that cannot be manufactured in Vietnam and are imported to serve the manufacturing of projects of investment in the following fields and areas shall be exempt for 05 years from commencement date of manufacturing:

a) The fields in which investment is encouraged prescribed in Appendix I enclosed with Decree No. 87/2010/NĐ-CP (except for projects of manufacturing/assembly of cars, motorbikes, air conditioners, heaters, refrigerators, washing machines, electric fans, dish washing machines, disc players, sound systems, electric irons, water heaters, hair dryers, hand dryers, alcohols, beer, tobacco, and other articles on which import tax is not exempt according to the Prime Minister's decisions);

b) Extremely disadvantaged areas on the List of areas eligible for preferential corporate income tax enclosed with Decree No. 218/2013/NĐ-CP, Decree No. 91/2014/NĐ-CP, and Decree No. 53/2010/NĐ-CP (except for projects of manufacturing/assembly of cars, motorbikes, air conditioners, heaters, refrigerators, washing machines, electric fans, dish washing machines, disc players, sound systems, electric irons, water heaters, hair dryers, hand dryers, alcohols, beer, tobacco, and other articles on which import tax is not exempt according to the Prime Minister's decisions).

The 5-year tax exemption period begins on the day on which the manufacturing is commenced, which is confirmed by the management board of the industrial park, export-processing zone, hi-tech zone, economic zone, etc. where the enterprise is operating, or confirmed by the Department of Industry and Trade of the province in which project is located (if the project is not located within the aforementioned zones).

The list of materials/supplies and components that can be manufactured in Vietnam, which is the basis for granting tax exemption, shall be compiled in accordance with regulations of the Ministry of Planning and Investment.

The taxpayer must pay tax on the quantity of imported materials/supplies and components that exceed the manufacturing demand after the 5-year tax exemption period expires.

16. Goods manufactured, processed, recycled, assembled within a free trade zone without using imported materials or components shall be exempt from import tax when they are imported to inland. If imported materials or components are used, import tax shall be paid when such goods are imported to inland. The basis and calculation method of import tax are instructed in Clause 2 Article 40 of this Circular.

17. Machinery, equipment, means of transported temporarily imported to Vietnam by a foreign contractor to serve an ODA project in Vietnam shall be exempt from import tax upon temporary import and exempt from export tax upon re-export. At the expiration of the time limit for project execution, the foreign contractor must re-export the goods. Liquidation or transfer of goods in Vietnam instead of re-export is subject to permission by competent authorities. In this case import tax shall be paid as prescribed.

Passenger cars with fewer than 24 seats and cars designed for transporting both passengers and cargo that are equivalent to passenger cars with fewer than 24 seats must not be temporarily imported for re-export. Any foreign contractor that wishes to import them to Vietnam must pay import tax. When the construction is completed, the foreign contractor must re-export the vehicles that were imported and receive a refund of the import tax that was paid. The refund level is specified in Clause 9 Article 114 of this Circular.

18. Materials/supplies and components that cannot be manufactured in Vietnam and imported to serve the manufacturing of projects in border economic zones shall be exempt from tax as prescribed by the Prime Minister on financial policies on border economic zones.

19. Goods imported for sale in tax-free shops under the Prime Minister's decisions shall comply with instructions of the Ministry of Finance.

If complimentary goods, sample goods are provided free of charge by the foreign party for a tax-free shop to sell together with goods therein, such complimentary goods and sample goods are exempt from import tax. Both complimentary goods and sample goods must be supervised by the customs authority as if goods imported for sale in tax-free shops.

20. Tax exemption is special cases prescribed in Clause 20 Article 12 of Decree No. 87/2010/NĐ-CP.

21. Goods exempt from import tax under international agreements

22. Additional instructions:

a) In case an entity eligible for exemption of tax on goods imported as fixed assets as prescribed in this Article does not import goods but instead receives goods exempt from import tax from another entity in Vietnam, then the transferee is still eligible for exemption of import tax and the transferor is not required to pay tax arrears as long as the transfer price is not inclusive of import tax;

b) The entrusted importer or successful bidder for goods import (the price for goods supply under the entrustment contract or the successful bid is exclusive of import tax) that supplies imported goods for entities eligible for exemption of import tax prescribed in Clauses 7 – 18 of this Article is also eligible for exemption of import tax on the goods imported;

c) Goods, equipment imported as fixed assets of a preferential project and transferred to another entity (change of project investor) are still eligible for exemption of import tax if all of the conditions below are satisfied:

c.1) At the time of transfer, the project is still eligible for investment incentives according to the Law on Export and import tax and its guiding documents;

c.2) Transfer prices for machinery and equipment as fixed assets are exclusive of import tax;

c.3) The transferee (new investor) is the investor in the transferred project according to the adjusted certificate of investment.

Within 10 days from the transfer date, the transferor and the transferee must declare the transfer at the customs authority where the list of tax-free goods is registered.

d) Any finance lease company that imports machinery, equipment, and means of transport and leases them out to an entity eligible for exemption of import tax prescribed in Clause 7, Clause 9, Clause 11, Clause 12, and Clause 14 of this Article is also eligible for exemption of import tax as if goods are directly imported by the project investor if the all of the following conditions are satisfied:

d.1) The rent under the finance lease contract is exclusive of import tax;

d.2) Imported goods that are exempt from tax are deducted from the list of tax-free goods and monitoring sheet for tax-free goods of preferential projects made by its investor.

When the finance lease contract expires, if leased goods that are exempt from tax are not used for the preferential project as intended, the finance lease contract shall pay tax as instructed in Article 21 of this Circular. Other imported goods must not be used for the preferential project instead of the leased goods on which import is exempt.

dd) With regard to promoted project issued with an investment license and certificate of investment incentives before Decree No. 87/2010/NĐ-CP comes into force, if the export/import tax incentives on such investment license and certificate of investment incentives are more beneficial than those prescribed in Decree No. 87/2010/NĐ-CP, the more beneficial incentives shall apply if all of the conditions below are satisfied:

dd.1) The Investment license and certificate of investment incentives are unexpired and the investment incentive terms are unchanged.

The incentives on the investment license, certificate of investment incentives are conformable with law at the time of their issuance;

dd.2) The list of tax-free goods is registered as prescribed.

If the import/export tax incentives on the investment license or certificate of investment incentives are less beneficial than those prescribed in Decree No. 87/2010/NĐ-CP, the latter may be applied for the remaining incentive period of the project.

Article 104. Registration of list of imported goods exempt from tax (hereinafter referred to as “tax-free goods”)

1. Cases in which the List of tax-free goods must be registered:

The goods mentioned in Clause 1, Clause 4, and Clause 5 Article 12 of Decision No. 72/2013/QĐ-TTg, Clause 7, Clause 8, Clause 9, Clause 10, Clause 11, Clause 12, Clause 13, Clause 14, Clause 15, Clause 16, Clause 18, and Clause 21 Article 103 of this Circular.

2. The list of tax-free goods must suit the business lines, targets, scale, capacity of the project, and shall be compiled once for the entire project execution process or for each stage, each item of the project (if the certificate of investment, economic – technical argument, documents of the project show that the project is divided into various stages or items), or each compound, technological line if goods are compounds or technological lines.

If the list for the entire project execution process or each state, item, compound, line of the project is incorrect or has to be changed, the declarant may adjust it as long as documents proving such adjustment is appropriate are submitted to the customs authority before goods are imported.

3. Goods users (project investor, shipyard owner, etc.) shall register the list of tax-free goods (form No. 13/ĐKDDMMT/TXNK in Appendix VI enclosed herewith if a paper list is registered). If the general contractor or sub-contractor or a finance lease company imports goods instead of the project investor, the contractor or finance lease company shall use the list of tax-free goods registered with the tax authority by the investor.

4. Places to registering the list

The Customs Department of the province where the project is executed (if identifiable) or the Customs Department of the province in which the headquarter is located (if the Customs Department of the province where the project is executed is not identifiable) or the Customs Department of the nearest province (if there is no customs authority in the province) The Director of Customs Department shall appoint a capable unit to grant registration the list of tax-free goods.

If a Customs Department is in charge of multiple provinces, its Director may also appoint the Sub-department of Customs in charge of the province to grant registration of the List of tax-free goods to the projects located therein.

5. Application for registration

When registering the list of tax-free goods with the customs authority, the taxpayer that registers the list shall submit an application to the customs authority, which consists of:

a) A registration form No. 14/CVĐKDMMT/TXNK in Appendix VI enclosed with specifying the quantity of goods, reasons for tax exemption: 01 original copy;

b) A list of tax-free goods if it is not registered on the System: 02 original enclosed with 01 monitoring sheet (form No. 15/PTDTL/TXNK in Appendix VI enclosed herewith).

6. The basis for the declarant to register the list of tax-free goods with the customs authority:

a) The fields or administrative division eligible for import tax incentives as prescribed by relevant regulations of law;

b) The list of goods issued by a competent authority in the following cases:

b.1) The list of machinery, equipment, spare parts, dedicated means of transport, materials/supplies, semi-finished products that can be manufactured in Vietnam according to regulations of the Ministry of Planning and Investment;

b.2) The list or criteria for identification of dedicated means of transport in technological lines compiled by the Ministry of Science and Technology;

b.3) The list of permissible imported plant varieties and animal breeds compiled by the Ministry of Agriculture and Rural Development;

b.4) The list of equipment, the first import of which is exempt from import tax according to Appendix II and Article 12 of Decree No. 87/2010/NĐ-CP;

b.5) The list or criteria for identification of dedicated means of transport serving petroleum activities compiled by the Ministry of Science and Technology;

b.6) The list of medical equipment and emergency medicines on oil rigs and floating works confirmed by the Ministry of Health;

b.7) The list or criteria for identification of dedicated means of transport in technological lines that are fixed assets of shipyards issued by the Ministry of Science and Technology;

b.8) The list of machinery, equipment, spare parts, supplies, means of transport directly serving scientific research and technology development that can be manufactured in Vietnam issued by the Ministry of Planning and Investment.

7. The registration must be applied for before the first declaration of exported/imported goods of the project, item, or stage, or expanded project is registered.

8. The taxpayer shall:

a) Register, adjust the list of tax-free goods via the System as follows (unless registration of the list via the System is not available):

a.1) Provide information about the list of tax-free goods according to standard format and criteria on the System;

a.2) Submit documents enclosed with the application for registration or adjustment of the list of tax-free goods prescribed in this Article;

a.3) Receive feedbacks from the customs authority via the System;

a.4) Retain documents that are the basis for identification of tax-free goods and present them to the customs authority or a competent authority during inspection.

b) Determine the need for tax-free goods and compile the list of tax-free goods as prescribed;

c) Take legal responsibility for the accuracy and truthfulness of the tax-free goods on the list and using them for appropriate purposes.

9. Responsibilities of the customs authority:

a) The customs authority shall receive and process the application within 10 working days from the day on which it is received as follows:

a.1) If goods are not eligible for tax exemption, the customs authority shall notify the applicant in writing of the refusal to grant the registration.

If the field or location of the project is eligible for investment incentives but goods on the list of tax-free goods are not suitable for the target, scale of the project, the customs authority shall instruct the applicant to adjust the list;

a.2) If the basis for identification of tax-free goods prescribed in Point a.1 is not sufficient, the tax authority shall accept the information provided by the applicant, record it to the logbook, append the seal on 02 copies of the list of tax-free goods and 01 copy of the monitoring sheet in case of registration of a paper list; (01 copy of the list of tax-free goods and 01 copy of the monitoring sheet shall be given to the taxpayer; 01 copy of the list of tax-free goods shall be retained by the customs authority);

a.3) If the basis for identification of goods that satisfy the conditions in Point a and Point c Clause 7 of Article 103 is not ample at the time of registration of the list of tax-free goods, the customs authority where the list is registered shall write a note on the list and the monitoring sheet for comparison upon import or for post-clearance inspection;

a.4) Write a note of the document inspection result on the list of tax-free goods for the Sub-department of Customs where export/import procedures are followed to carry out inspection and comparison upon import of goods or for post-clearance inspection.

b) If the list of tax-free goods is registered via the System, the customs authority shall:

b.1) receive and process the application in accordance with regulations of this Article;

b.2) issue an identification number, enter information about the result on the System;

b.3) give feedbacks to the declarant via the System;

c) Reporting:

Every 03 months, not later than the 10th of the first month of the next quarter, the Customs Department where the list of tax-free goods is registered shall make a lists of tax-free goods registered therein and send a report to the General Department of Customs (form No. 16/BCTHDMMT/TXNK in Appendix VI enclosed herewith);

d) The Director of the Customs Department shall cooperate with competent authorities to collect information serving the inspection of applications for lists of tax-free goods as prescribed in Point a of this Clause, carry out post-clearance inspection to determine whether the tax-free goods are used for appropriate purposes, and impose penalties for violations.

The customs authority shall inspect all the cases of goods imported under international agreements within 03 years from the time of registration of the list of tax-free goods or the time of import of tax-free goods.

10. After the customs authority confirms the registration of the list of tax-free goods and the monitoring sheet, if the list is found incorrect (such as the quantity of goods exceeds the scale of the project; categories of goods are not appropriate for the target and purposes, etc.), the customs authority where the list is registered shall:

a) Request the applicant to adjust the list;

b) Inspect the adjustment and update the result;

c) Collect tax on the excess quantity of goods compared to the adjusted goods.

11. In case the certificate of investment of a project is revoked:

a) The customs authority where the list of tax-free goods is registered shall:

a.1) Remove the list of tax-free goods from the System after checking and making a backup outside the System as instructed by the General Department of Customs.

In case of paper list of tax-free goods, it shall be revoked;

a.2) Notify and request customs authorities nationwide to stop granting tax exemption to goods on the list of tax-free goods.

b) The customs authorities that granted tax exemption to the project shall collect tax as prescribed.

12. In case of registration of a paper list, if the list and the monitoring sheet is lost, according to the confirmation of Customs Departments of other provinces of the loss of the list and the monitoring sheet, the customs authority where the list is registered shall check and reissue the list of tax-free goods and monitoring sheet for the goods pending export/import of the project.

The list of tax-free goods and monitoring sheet shall be reissued as follows:

a) An application for reissuance consists of:

a.1) An application form for reissuance of the list of tax-free goods and monitoring sheet specifying the reasons for losing the list and the monitoring sheet;

a.2) The list of tax-free goods and the monitoring sheet issued by the customs authority where the last shipment was processed before the loss (01 photocopy certified by the customs authority where goods are imported).

b.2) In case the monitoring sheet is lost:

b.2.1) According to the notification and the request for reissuance of the monitoring sheet, the customs authority shall:

b.2.1.1) Notify the Customs Departments of other provinces of the cancellation of the lost monitoring sheet, request them to confirm the quantity of tax-free goods exported/imported (the numbers and dates of the list and monitoring sheet must be specified);

b.2.1.2) Within 10 days from the receipt of the notification, the Customs Departments of other provinces shall check customs dossier; export and import data system, determine the quantity of tax-free goods exported, imported according to the list of tax-free goods and monitoring sheet, send a written confirmation to the notifying customs authority; suspend processing tax on the next shipment of goods on the list of tax-free goods and monitoring sheet that are lost until new ones are reissued.

b.2.2) After receiving the confirmations of quantity of exported/imported goods from other Customs Departments, the customs authority shall:

b.2.2.1) Calculate the total quantity of exported/imported goods according to the list of tax-free goods and the monitoring sheet that were issued;

b.2.2.2) Verify the quantity of tax-free goods of the project and the use of them before reissuing the monitoring sheet;

b.2.2.3) Reissue the monitoring sheet for the remaining quantity of goods pending export/import;

b.2.2.4) Write “CẤP LẠI LẦN 1” (“1st reissuance”) on the reissued monitoring sheet;

b.2.2.5) Impose penalties for violations against according to retention of documents.

The time limit is 05 working days from the day on which confirmations are received from other Customs Departments.

Within 01 years from the reissuance of the list and monitoring sheet, the customs authority shall carry out a post-clearance inspection of the project.

Article 105. Documents and procedures for tax exemption

1. The customs dossier specified in this Circular shall be tax exemption documents.

In case the taxpayer faces objective difficulties and other cases in which export tax, import tax is exempt prescribed by the Government, import tax is exempt, it is required to have written confirmation of the difficulties provided by a competent authorities.

2. Procedures for granting tax exemption:

a) If registration of a List of tax-free goods is not required:

a.1) The taxpayer shall calculate and declare the amount of exempt tax on each article (except for goods imported for processing). The customs declaration is similar to the case in which tax has to be paid. The customs authority shall compare the tax exemption documents and the amount of tax to be exempt with applicable regulations to carry out procedures for granting exemption to each of the customs declaration as prescribed.

If the customs authority determines that exported or imported goods are not eligible for tax exemption as declared, tax shall be collected and penalties shall be imposed (if any);

a.2) In case the taxpayer faces objective difficulties and other cases in which export tax, import tax is exempt prescribed by the Government:

a.2.1) The taxpayer shall determine the amount of exempt tax and submit a written request (enclosed with relevant documents) to the General Department of Customs (the General Department of Customs shall send a report to the Ministry of Finance, and the Ministry of Finance shall request the Prime Minister to consider granting tax exemption);

a.2.2) The General Department of Customs shall check all documents. If documents are not satisfactory or the reasons for tax exemption must be clarified, the taxpayer shall be notified in writing. After the basis is ample, the General Department of Customs shall send a draft report to the Ministry of Finance, which is then submitted to the Prime Minister;

a.2.3) According to the directive of the Prime Minister, the Ministry of Finance shall send a notification to taxpayer and relevant customs authority;

a.2.4) The customs authority where procedures for export/import of goods are followed shall grant exemption of export tax/import tax on the corresponding quantity of goods or collect tax in full as directed by the Prime Minister.

b) If registration of a List of tax-free goods is required:

b.1) The taxpayer and customs authority shall follow the instructions in Point a.1 Clause 2 of this Article;

b.2) The System shall automatically deduct the corresponding quantity exported or imported goods according to the list of tax-free goods.

In case of registration of a paper list, apart from the customs procedures mentioned in Point a.1 Clause 2 of this Article, the customs authority shall update the quantity, deduct the quantity of tax-free goods that are exported/import on the original monitoring sheet, and append signatures. 01 photocopy of the list of tax-free goods and monitoring sheet on which the names, quantity of tax-free goods that are exported/imported are specified shall be kept together with the customs dossier (even if the tax-free goods are transferred to another entity that is also eligible for tax exemption).

If tax exemption is granted to a compound or machinery line that must be divided into multiple shipments in order to be assembled into a complete compound or machinery line, thus goods quantity cannot be deducted importation, then the deduction shall be carried out after the compound or machinery line is completely imported. Particularly:

The taxpayer shall import the shipments at 01 Sub-department of Customs and estimate the time of completion of the import.

At the time of import, the taxpayer must declare the specific quantity, names of goods to be imported, and specify which articles are on the registered list of tax-free goods.

Within 15 days from import the last shipment of each compound or machinery line, the taxpayer shall aggregate the import declarations in order for the customs authority to monitor and deduct the quantity of goods on the monitoring sheet.

The Director of Customs Department shall decide the cases in which goods quantity cannot be deducted at the time of importation and carry out post-clearance inspection in order to determine whether declared tax-free goods are appropriately used for the project according to applicable regulations, and impose penalties for any violation that is committed;

b.3) The customs authority shall only grants tax exemption if the customs declaration is registered after the list of tax-free goods is registered. The Director of the Customs Department where export/import procedures are followed shall cooperate with the Customs Department where the list of tax-free goods is registered in considering the cases in which the customs declaration that is registered before the registration date of the list;

b.4) Within 30 days from the day on which exported/import goods are completed deducted by the System, the customs authority where the list of tax-free goods is registered shall remove the list from the System after it is checked and backed up as instructed by the General Department of Customs.

In case of registration of a paper list, after the quantity of imported goods on the monitoring sheet is completely deducted, the customs authority that processes the last shipment shall make a confirmation on the monitoring sheet, keep 01 photocopy, give 01 photocopy to the declarant, and send the original to the customs authority which issued the monitoring sheet.

If the customs authority where the list is registered also processes the last shipment, after the quantity of imported goods on the monitoring sheet is completely deducted, the customs authority shall keep the original for inspection of the import, use of tax-free goods, and give 01 photocopy to the declarant.

3. Exemption of tax on exported or imported goods sent by express mail shall comply with the Circular of the Ministry of Finance on customs procedures applied to exported and imported goods sent by express mail.

Article 106. Reporting, inspecting the use of imported tax-free goods

1. Reporting time:

Every year, within 90 days from the end of the fiscal year, the taxpayer that registered the list of tax-free goods shall submit a report on the use of imported tax-free goods during the fiscal year to the customs authority where the list is registered.

2. The report shall specify:

a) The use of imported tax-free goods:

- a.1) The quantity of imported goods used for tax-free purposes;
 - a.2) The quantity of imported goods used for other purposes;
 - a.3) The quantity of imported goods that are unused;
 - a.4) The imported tax-free goods recorded as fixed assets according to Circular No. 45/2013/TT-BTC dated April 25, 2013 of the Ministry of Finance.
- b) The list of deduction of imported tax-free goods shall be monitored by the taxpayer.

The report contents must comply with form No. 17/BCKT-NKMT/TXNK in Appendix VI enclosed herewith.

3. Late submission of the report shall result in administrative penalties as prescribed by law. If the taxpayer fails to submit the report within 30 days from the deadline for submitting the report, the customs authority shall update information about the taxpayer's conformity with law on the risk management system and carry out a post-clearance inspection at the taxpayer's premises.

4. The customs authority where the list of tax-free goods is registered shall:

- a) Receive, review, analyze, and retain reports on use of tax-free goods;
- b) Carry out inspection at taxpayers' premises according to decisions of the Director of the Customs Department. Inspections shall be carried out in accordance with Chapter VIII of this Circular;
- c) Collect tax fully and impose penalties in the following cases:
 - c.1) Tax-free goods are used for inappropriate purposes;
 - c.2) Goods that are not eligible for tax exemption are declared as tax-free goods and granted customs clearance according to the taxpayer's declaration
 - c.3) The total quantity of imported materials/supplies exceeds the demand for tax-free goods for 05 years according to Clause 15 and Clause 18 Article 103 of this Circular.

Section 2. Cases of conditional tax exemption, procedures for granting conditional tax exemption

Article 107. Cases of conditional tax exemption

Exported goods and imported goods in the following cases shall be eligible for conditional tax exemption:

1. Imported goods are particularly used for national defense and security under specific plans approved by the regulatory Ministry, which have been registered and concurred with by the Ministry of Finance (they must be classified into goods funded by central budget and goods funded by local budget).

Imported goods are particularly used for national defense and security that are funded by local budget are only eligible for conditional tax exemption if they cannot be manufactured in Vietnam. The basis for identifying goods that cannot be manufactured in Vietnam is the list of goods that can be manufactured in Vietnam compiled by the Ministry of Planning and Investment.

2. Imported goods are particularly used for scientific research (except for the case in Clause 13 Article 12 of Decree No. 87/2010/NĐ-CP) according to the list approved by the regulatory Ministry.

3. Imported goods are particularly used for education and training according to the list approved by the regulatory Ministry.

4. Goods permitted to be exported, imported as gifts, samples from a foreign entity to a Vietnamese entity and vice versa are eligible for conditional tax exemption according to regulations of the Prime Minister.

If the value of gifts or samples whose exceeds the tax-free allowance, tax on the excess value shall be imposed. The whole value of the shipment is eligible for conditional tax exemption in the following cases:

a) The recipient of gifts is a public administration unit, socio-political organization, socio-political-professional organization, socio-professional organization, economic organization, social organization. Conditional tax exemption shall be considered on a case-by-case basis;

b) Goods are humanitarian or charitable gifts.

5. In case the materials, machinery and equipment imported for inward processing or manufacturing of goods for export under the contract are totally damaged and unusable because of a natural disaster, conflagration, accident, import tax shall be exempt and VAT shall be cancelled when goods are imported if all of the following conditions are satisfied (unless the damage is caused by violations of law in the HD981 standoff event, to which other instructions of the Ministry of Finance apply):

a) Goods are granted customs clearance, a competent authority determines that the damage is caused by a natural disaster, conflagration, or accident, and all of the goods are damaged and unusable;

b) The customs have examined accounting records and relevant documents and concluded that the materials, machinery and equipment have been imported but lost because of the natural disaster, conflagration, or accident, and thus cannot be sold in Vietnam or exported to abroad.

In case the lost materials, machinery and equipment are insured and the insurer has provided indemnity against the damage, including VAT, import tax and VAT shall not be exempt or cancelled.

Article 108. Application for conditional tax exemption

1. In the cases mentioned in Clause 1, Clause 2, Clause 3, Clause 4 Article 107, the application for tax exemption consists of:

a) A written request for tax exemption submitted by the user of exported or imported goods (except for Point c.1 of this Clause) which specifies the value, tax, reasons for conditional tax exemption, customs declaration number(s): 01 original copy

b) A sale contract (if any): 01 photocopy;

c) Other documents on a case-by-case basis as follows:

c.1) A written request for conditional tax exemption made by the Ministry of National Defense, the Ministry of Public Security or a unit authorized by the Ministry of National Defense or the Ministry of Public Security specifying that goods are imported to serve national defense and security and funded by central/local budget; quantity, categories, value of imported goods; tax amount, customs declaration number(s) (and a monitoring sheet if the partial shipments of imported goods are permitted);

c.2) The import entrustment contract (in case of entrustment) or notice of successful bidder enclosed with the goods supply contract (if goods are imported through bidding), which specifies that the prices are exclusive of import tax: 01 photocopy;

c.3) A decision to approve the research and list of necessary goods to be imported made by the regulatory Ministry if goods are imported to serve scientific research: 01 photocopy of the decision, 01 photocopy of the list of necessary goods enclosed with the originals for comparison (a monitoring sheet must be enclosed if partial shipments of imported goods are permitted);

c.3) A decision to approve the project of investment in equipment and the list of equipment to be imported made by the regulatory Ministry if goods are imported to serve education and training: 01 photocopy of the decision (a monitoring sheet must be enclosed if partial shipments of imported goods are permitted);

c.5) If goods are gifts or samples:

c.5.1) A notice or decision or agreement of giving goods; a notice or agreement on shipment of samples: 01 photocopy;

c.5.2) If temporarily imported goods are kept as gifts for Vietnamese entities instead of being re-exported, it is required to have a license issued by a competent authority and the quantity must not exceed the allowance prescribed by the Government;

c.5.3) A confirmation made by a superior agency of the permission to receive tax-free goods that are used as gifts whose value exceed the tax-free allowance for a public administration unit, socio-political organization, socio-political-professional organization, socio-professional organization, economic organization, social organization which is funded by state budget beyond the allowance for conditional tax exemption.

2. In case of damaged materials, machinery and equipment that are imported for inward processing or manufacturing of goods for export prescribed in Clause 5 Article 107 of this Circular, the application for conditional tax exemption of import tax or cancellation of VAT when goods are imported consists of:

a) A written request for exemption of import tax or cancellation of VAT on the imported materials, machinery and equipment that are totally damaged and unusable. The request must specifies the reason for damage, ratio of damage, customs declaration number, amount of tax to be exempt, and the commitment to take legal responsibility for the declaration: 01 original copy;

b) A written confirmation of the conflagration made by the local fire department; a written confirmation of a the People's Committee of the commune where the natural disaster or accident occurs: 01 original copy;

The aforementioned documents must be made right after the natural disaster, conflagration, or accident occurs.

c) A certification made by a professional analysis service provider of the quantity of imported materials, machinery and equipment that are damaged, the damage ratio of imported goods, or the fact that goods are no longer usable: 01 photocopy;

d) A insurance contracts, notice of indemnity payment made by the insurer (if any): 01 photocopy;

dd) The insurer's confirmation that the insurance contract does not cover loss of tax: 01 photocopy.

If the damaged shipment is not insured, the taxpayer must have specify that goods are not insured on the written request mentioned in Point a of this Clause.

3. In case of paper-based customs declaration, the paper declaration must be submitted in addition to the documents mentioned in Clause 1 and Clause 2 of this Article.

Article 109. Procedures for considering tax exemption

1. Submission and receipt of the application for tax exemption

a) The taxpayer submits the application to the customs authority competent to consider tax exemption as prescribed in Article 110 of this Circular. If the case must be considered by the

Ministry of Finance, the taxpayer shall submit the application to the General Department of Customs.

If imported goods are eligible for conditional tax exemption, the application must be submitted within 30 working days from the day on which goods are granted customs clearance or released.

In case materials, machinery and equipment that are imported for inward processing or manufacturing of goods for export are damaged because of a natural disaster, conflagration, or accident, the application must be submitted within 30 working days from the day on which the damage is confirmed by a competent authority;

b) If the application is submitted directly at a customs authority, the customs official shall receive it and append a seal on the application, write the receipt time and documents in the application;

c) If the application is sent by post, the Sub-department of Customs shall write the receipt date on the logbook of the customs authority;

d) If the application is submitted electronically, it shall be received, checked, and accepted via the System.

2. The customs authority is responsible for examining the application submitted by the taxpayer and performing the following tasks:

a) If the application is not satisfactory, the tax authority shall notify the taxpayer within 03 working days from the day on which it is received;

b) The customs authority shall check the consistency between the declaration on the System and the application.

If goods are imported to serve national defense and security, the customs authority shall compare the application with the lists of goods serving national defense and security compiled by the Ministry of National Defense and the Ministry of Public Security;

c) Within 15 days from the day on which the satisfactory application is received, the customs authority shall issue a decision on tax exemption, or notify the taxpayer of the reasons for rejection and the amount of tax payable if the application is rejected. If site inspection is necessary, the said time limit may be extended up to 40 days from the day on which the satisfactory application is received.

If the taxpayer has submitted a satisfactory application while following customs procedures, the customs authority shall examine the application, conditions for conditional tax exemption, and grant tax exemption within the time limit for completion of customs procedures prescribed in Article 23 of the Law on Customs;

d) In case materials, machinery and equipment imported for inward processing or manufacturing of goods for export are damaged, the customs authority shall examine accounting records and inventory documents related to the damaged shipment; compare the transactions of the taxpayer to determine the level of damage and make sure damage is caused by a natural disaster, conflagration, or accident; all of the imported goods are totally damaged, unusable, cannot be sold on the domestic market or exported.

The inspection must be completed within 40 days from the day on which the satisfactory application is received.

If the inspection result shows that the imported materials, machinery and equipment are eligible for tax exemption or tax cancellation, the Customs Department where import procedures are followed shall issue a decision on exemption of import tax or cancellation of VAT on damaged goods, which is the basis for tax refund (if any).

3. On the basis of the decision on tax exemption, the customs authority where the customs declaration is registered shall record the amount of exempt tax on the System.

Article 110. Entitlements to consider tax exemption

1. The Ministry of Finance shall consider exemption of tax on goods that are gifts whose value exceeds the tax-free allowance prescribed in Clause 4 Article 107 of this Circular.

2. The General Department of Customs shall decide exemption of tax on imported goods serving national defense and security.

3. Customs Department where import procedures are followed shall consider granting exemption of tax on:

a) Dedicated goods serving scientific research, education and training;

g) Materials, machinery and equipment imported for inward processing or manufacturing of goods for export that are damaged.

4. The Sub-department of Customs where import procedures are followed shall grant tax exemption for goods that gifts whose value does not exceed the tax-free allowance prescribed by the Prime Minister.

Section 3. Cases of conditional tax reduction, procedures for granting conditional tax reduction

Article 111. Cases of conditional tax reduction

1. If exported or imported goods under supervision of the customs are lost or damaged, a tax reduction that is corresponding to the damage to the goods shall be considered if such damage is confirmed by a competent analysis organization.

2. Materials, machinery and equipment imported for inward processing or manufacturing of goods for export are partially damaged because of a natural disaster, conflagration, accident, but are still usable shall be granted a reduction in import tax and VAT upon importation which is corresponding to the damage ratio if all of the conditions below are satisfied: (unless the damage is caused by violations of law in the HD981 standoff event, to which other instructions of the Ministry of Finance apply):

- a) Goods have been granted customs clearance, and a competent authority determines the damage ratio and that the damage is caused by a natural disaster, conflagration, or accident;
- b) The customs have examined accounting records and relevant documents and concluded that the goods are not sold on Vietnam's market or exported to abroad.

In case the damaged materials, machinery and equipment are insured and the insurer has provided indemnity against the damage, including import tax and VAT, then import tax and VAT shall not be reduced.

Article 112. Application for conditional tax reduction

1. The taxpayer shall submit the following documents:

- a) A written request for tax reduction which specifies the types of goods, quantity, value, tax amount, reasons for reduction, customs declaration number(s); a commitment to provide accurate information: 01 original copy.

In case materials, machinery and equipment imported for inward processing or manufacturing of goods for export are damaged as prescribed in Clause 2 Article 111 of this Circular, the written request for reduction of import tax and VAT must specify the reasons and damage ratio, the level of reduction, and a commitment to take legal responsibility for the declaration;

- b) A written confirmation of the conflagration made by the local fire department; a written confirmation of a the People's Committee of the commune where the natural disaster or accident occurs: 01 original copy (in the case mentioned in Clause 2 Article 111 of this Circular);
- c) A certification made by a professional analysis service provider of the quantity of imported materials, machinery and equipment that are damaged or damage ratio: 01 original copy;
- d) A insurance contracts, notice of indemnity payment made by the insurer (if any): 01 photocopy;
- dd) A contract/agreement for compensation made by the shipping company if the damage is caused by the shipping company: 01 photocopy.

If the exported or imported goods mentioned in Article 111 of this Circular are not insured, the application shall not include the documents mentioned in Point d and Point dd of this Clause, and the taxpayer must make a commitment that insurance is not bought in the written request

mentioned in Point a of this Clause; if the insurance contract does not cover tax loss, it must be certified by a the insurer: 01 original copy.

2. In case of paper-based customs declaration, the declarant must submit the original declaration in addition to the documents mentioned in Clause 1.

Article 113. Procedures and entitlements to consider tax reduction

1. Procedures for considering tax reduction are similar to procedures for considering tax exemption.

2. The Director of the Sub-department of Customs where customs procedures are followed is entitled to consider tax reduction.

Section 4. Tax refund, tax cancellation; procedures for tax refund, tax cancellation

Article 114. Cases of tax refund

1. Goods that are still stored at the checkpoint after import tax has been paid and being supervised by the customs, and then re-exported to abroad.

2. Goods on which export/import tax has been paid but are not actually exported/imported.

3. Goods on which export/import tax has been paid but a smaller quantity is actually exported/imported.

4. Imported goods to be delivered/sold to abroad via agents in Vietnam; imported goods to be sold to means of transport of foreign companies on international routes through Vietnam's ports and Vietnamese means of transport on international routes as prescribed by the Government.

5. Imported goods on which import tax has been paid that are used for manufacturing products that are exported to abroad or a free trade zone shall receive a tax refund in proportion to the quantity of exported goods. Export tax on exported goods is exempt if there is ample basis to determine that such goods are made entirely of imported materials/supplies. Particularly:

a) If exported products are entirely made of imported materials/supplies, export tax is exempt. If exported products are made of both imported and domestic materials, export tax shall be imposed on the quantity of domestic materials/supplies used for manufacturing of such products at corresponding rate of export tax on such products;

b) Materials/supplies on which import tax is refunded include:

b.1) Imported materials/supplies (including components, semi-finished products, packages) that form the exported products;

b.2) Materials/supplies that are directly used for the manufacturing of exported products but do not form the products such as paper, chalk, pens, markers, pins, printing ink, glue brushes, printing frames, erasers, polishing oil, etc;

b.3) Imported finished products that are assembled into exported products (or packed with exported products made of imported materials/supplies, or packed with exported products made of domestic materials/supplies) to create full packs for export;

b.4) Imported components and spare parts serving repair of exported products;

b.5) Goods imported as samples for manufacturing of goods for export that are returned to the foreign client after the contract is completed.

c) Tax refund shall be considered in the following cases:

c.1) An entity imports materials/supplies for manufacturing of goods for export or hires domestic contract manufacturers (including those in free trade zones), overseas contract manufacturers, or cooperate in manufacturing goods to be exported and receive products for export;

c.2) An entity imports materials/supplies to manufacture goods for sale in Vietnam, but then uses them to manufacture goods to be exported which are then actually exported (the time limit is 02 years from the registration date of the customs declaration of imported materials/supplies to the registration date of the customs declaration of exported goods made of such materials/supplies)

c.3) In case an entity actively imports materials/supplies (other than finished products) to perform a processing contract without being required by the foreign entity, when goods are exported, refund of import tax shall be considered similarly to the case in which materials/supplies imported for manufacturing goods to be exported;

c.4) An entity imports materials/supplies to manufacture certain products and then uses such products to process goods for export under a processing contract with a foreign party;

c.5) An entity imports materials/supplies to manufacture certain products, then sell such products (whether finished products or unfinished products) to another entity for further processing. After the latter has exported products to abroad, the importer of materials/supplies shall receive a refund of import tax in proportion to the quantity of materials/supplies used for manufacturing of exported products provided the following conditions are satisfied: the seller and the buyer pay VAT using credit-invoice method; the importer has obtained a TIN and has a sale invoice for the trading of goods;

c.5) In case an entity imports materials/supplies to manufacture certain products, then sell such products (whether finished products or unfinished products) to another entity for exporting as knock-down kits, a refund of import tax that is in proportion to the ratio of exported products shall be considered if the conditions mentioned in Point c.5 of this Clause and the following conditions are satisfied:

c.6.1) The products made of imported materials/supplies are parts, components of exported knock-down kits;

c.6.2) Products are bought to be combined with the components, parts manufactured by the buyer to create the exported knock-down kits.

c.7) An entity imports materials/supplies to manufacture certain products, then sell such products (whether finished products or unfinished products) to another entity for direct export to abroad. After products are exported by the buyer, the importer shall receive a refund of import tax in proportion to the quantity of exported goods if the conditions mentioned in Point c.5 of this Clause are satisfied;

c.8) In case an entity imports materials/supplies to manufacture products that are sold to a foreign trader who requires that goods be delivered to another entity in Vietnam, the import tax on materials/supplies used for manufacturing of goods for export shall be refunded:

c.8.1. Conditions for refund of tax on imported materials/supplies:

c.8.1.1) The goods received by the local importer must be used for further manufacturing or inward processing under a processing contract with a foreign party (the customs authority shall keep monitoring the domestic importer);

c.8.1.2) The purpose written on the declaration shall be manufacturing of goods for export or inward processing if the local importer uses the products for further manufacturing or inward processing.

c.8.2) If the customs has collected import tax from the initial importer when materials/supplies are imported from abroad to Vietnam and also import tax on locally imported products from the local importer, the initial importer shall receive a refund of import tax on the imported materials/supplies after the local importer of goods has paid import tax for the locally imported goods (except for the case mentioned in Point c.8.1.1 of this Clause).

c.9) Materials/supplies imported for manufacturing of goods for export mentioned in Points c.1 – c.7 have been exported to abroad but are not actually sold to overseas customers and are still kept at the exporter's overseas warehouse or in an overseas bonded warehouse or transshipment port;

c.10) In case materials/supplies imported for manufacturing goods for export mentioned in Points c.1 – c.7 are eventually exported to a free trade zone and used therein or exported from the free trade zone to abroad, the paid import tax on the quantity of goods used in the free trade zone or exported from the free trade zone to abroad shall be refunded;

d) If multiple types of products are obtained from a type of imported materials/supplies but only one of them is exported, the tax on the quantity of materials/supplies that are not exported must be declared and paid.

The amount of tax to be refunded is calculated as follows:

$$\text{Import tax to be refunded (proportional to quantity of exported products)} = \frac{\text{Value of exported products}}{\text{Total value of products obtained}} \times \text{Total import tax on imported materials/supplies}$$

Where:

d.1) Value of exported products equals (=) the quantity of exported products multiplied by (x) their dutiable value;

d.2) Total value of products obtain is the total value of exported products and the revenue from domestic sale of products (inclusive of waste, rejects above the norms and exclusive of output VAT).

In case multiple types of products are obtained from one type of imported materials/supplies (e.g. wheat is imported to produce wheat flour, wheat mash, and wheat husk) and one or some of the types of products are used for manufacturing of goods for export, the other are used for domestic sale (e.g. wheat mash and wheat husk are used for domestic sale; wheat flour is used for manufacturing exported instant noodles), then:

d.2.1) When calculating the value of exported products and total value of products obtained, the amount of materials/supplies bought inland must be removed (e.g. apart from wheat flour, other materials/supplies such as flavorings, seasonings, packages, etc. are bought inland);

d.2.2) The manufacturer must establish the norms of domestic materials/supplies used in an exported product as the basis for removing domestic materials/supplies from exported products. If the norm is suspected, the tax-refunding authority may request a specialized agency in charge of the commodities to cooperate with the local tax authority (which issues the TIN to the exporter) in carrying out an inspection at the manufacturer's premises.

dd) In case materials/supplies are imported for manufacturing of goods for export and such products are exported by the deadline for paying tax, import tax on the quantity of materials/supplies proportional to the quantity of exported products shall not be paid.

6. In case temporarily imported goods, temporarily exported goods, goods imported under an entrustment contract with a foreign party and then re-exported, including imported goods that are re-exported to a free trade zone (and used therein or exported from the free trade zone to abroad, except for special economic zones, trade – industry zones, and other economic zones to which other instructions of the Ministry of Finance apply), import tax/export tax that has been paid shall be refunded and import/export tax shall be exempt when he products are re-imported/re-exported (unless tax exemption is granted as prescribed in Clause 1 Article 103 of this Circular).

In case temporarily imported/exported goods have been actually re-exported/re-imported by the deadline for paying tax, import tax/export tax on the quantity of re-exported/re-imported goods shall be cancelled.

7. If exported goods have to be imported back to Vietnam, export tax that was paid shall be refunded and import tax shall be cancelled.

a) Refund of export tax and cancellation of import tax is only granted if goods are have not been used for manufacturing, processing, repair overseas, or used overseas;

b) If exported goods that are processed by an Vietnamese contract manufacturer under a contract with a foreign party who is exempt from import tax on materials/supplies have to be imported back to Vietnam for repair, recycling, and then re-exported to abroad, the customs authority in charge of the initial processing contract must keep monitoring until recycled goods are completely exported.

Where recycled goods are not exported:

b.1) Tax shall be declared and paid if goods are sold domestically;

b.2) If goods have to be and are permitted to be destroyed in Vietnam, and the destruction is supervised by a customs authority, they are exempt from tax as if destructed waste and rejects.

c) In case of imported goods made of imported materials/supplies; goods temporarily imported for re-export (which are eligible for tax refund upon exportation) that must be imported back to Vietnam but are not recycled and re-exported:

c.1) Tax on the quantity of imported materials used for manufacturing the quantity of exported or re-exported goods that have to be imported back to Vietnam refunded or cancelled (in case tax is yet to be paid);

c.2) If tax has been refunded or cancelled by the customs authority, the taxpayer must return or pay such amount of tax to the customs authority.

d) If exported goods are imported back to Vietnam by the deadline for paying export tax, export tax on the quantity of imported goods shall be cancelled.

8. In case imported goods have to be re-exported to the foreign owners or re-exported to a third country or re-exported to a free trade zone (to be used therein or exported from the free trade zone to abroad, except for special economic zones, trade – industry zones, and other economic zones to which other instructions of the Ministry of Finance apply), import tax on the quantity of goods that are actually re-exported shall be refunded and export tax shall be cancelled.

a) Conditions for refund of import tax that has been paid and cancellation of export tax:

a.1) Goods have not been used for manufacturing, processing, repair in Vietnam, or used in Vietnam;

a.2) If imported goods are not consistent with the contract, it is required to have a notice of goods analysis result provided by a competent agency or a written agreement to receive goods of the

foreign goods owner. The taxpayer must declare and pay import tax on the quantity of goods sent by the foreign party to replace the quantity of goods re-exported;

a.3) Goods exported to a free trade zone (except for special economic zones, trade – industry zones, and other economic zones to which other instructions of the Ministry of Finance apply) are used within the free trade zone or have been exported from the free trade zone to abroad.

b) With regard to imported alcohol, beer, tobacco, timber that are then re-exported, the customs authority shall inspect the entire shipment upon exportation to check the equivalence of exported goods and imported goods;

c) If imported goods are re-exported by deadline for paying import tax, then import tax on the quantity of re-exported goods shall be cancelled.

9. With regard to machinery, equipment, instruments, means of transported that are permitted to be temporarily imported for re-export (in case of leasing) to execute projects of construction, installation, manufacturing, import tax that was paid shall be refunded when they are re-exported from Vietnam or to a free trade zone (for use within the free trade zone or export from the free trade zone to abroad.

The amount of refunded import tax shall be determined on the basis of the remaining use value of machinery, equipment, instruments, means of transported when they are re-exported according to the period over which they are used and kept in Vietnam (from the registration date of the temporary import declaration to the registration date of the re-export declaration). Tax shall not be refunded if they are no longer usable. The taxpayer shall declare and take responsibility for the depreciation ratio of goods over the said period as prescribed by relevant regulations of law, which is the basis for calculating the remaining use value of goods, when requesting the customs authority to grant tax refund. The ratio of import tax refunded shall be proportional to the remaining use value of goods.

Example: Company X temporary imports the brand new machine Y for construction and has paid VND 100 million of import tax. The machine is re-exported from Vietnam after it is used for 03 years. Company X declares the depreciation ratio of 40% for 03 years, the corresponding import tax refunded is 60% of the paid import tax: $60\% \times \text{VND } 100 \text{ million} = \text{VND } 60 \text{ million}$.

In case the imported machinery, equipment, instruments are not re-exported upon expiration of the temporary import period and are transferred to another entity in Vietnam, the transfer shall not be considered export, thus export tax shall not be refund and the buyer shall not pay import tax. When such goods are exported from Vietnam, the initial importer shall receive a refund of import tax as instructed in this Clause.

10. With regard to exported, imported goods sent by an overseas entity to another entity in Vietnam by post or international express mail and vice versa, if tax has been paid by the service provider but goods cannot be delivered to the consignee and have to be re-exported, re-imported, confiscated, or destroyed, then the paid tax shall be refunded as prescribed by law.

11. In case an entity whose goods are under the management of the customs commits customs offences and such goods are confiscated by a competent authority as exhibits, the paid export tax or import tax shall be refunded.

12. If export tax, import tax on certain goods has been paid and then tax exemption or tax refund is granted by a competent authority, paid tax shall be refunded.

13. In case exported or imported goods have to be destroyed after the customs declaration is registered because of some violation discovered by the customs, the customs authority shall issue a decision of cancellation of export tax or import tax (if any). Penalties for improper export, import of goods that lead to destructions of goods shall comply with applicable regulations of law. The customs authority where the customs declaration is registered must retain documents about destroyed goods, cooperate with relevant agencies in supervising the destruction in accordance with applicable regulations of law.

14. If the tax refund of an application is smaller than VND 50,000, the customs authority shall reject it and does not make the refund.

Article 115. Application for refund of paid import tax on goods that are still stored at the checkpoint, being supervised by the customs, and then re-exported to abroad

1. 01 original copy of the written request for refund of import tax shall be submitted, which specifies:

a) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods for which customs procedures have been completed;

b) The amount of import tax paid; the amount of import tax to be refunded;

c) Number of payment document if made via a bank;

d) Information about exported goods as prescribed in Article 53 of this Circular.

2. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 116. Application for refund of paid import/export tax on goods that are not actually exported/imported at all

1. 01 original copy of the written request for refund of paid import/export tax on goods that are not actually exported/imported, which specifies:

a) The number of the declaration of exported/import goods on which tax is to be refunded;

- b) The amount of import/export tax paid; the amount of import/export tax to be refunded;
- c) Number of payment document if payment is made via a bank;
- d) Information about goods that are not exported or imported as prescribed in this Circular.

2. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods as prescribed in Clause 1 Article 3 of this Circular.

Article 117. Application for refund of paid import/export tax on goods that are not completely exported/imported

1. 01 original copy of the written request for refund of paid import/export tax on goods that are not completely exported/imported, which specifies:

- a) The number of the declaration of exported/import goods on which tax is to be refunded; the additional declaration after customs clearance (if any) or the number of the decision on tax imposition (if any);
- b) The amount of import/export tax paid; the amount of import/export tax to be refunded;
- c) Payment document if payment is made via a bank;
- d) Information about exported goods prescribed in Article 53 of this Circular.

2. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 118. Application for refund of tax on imported goods to be delivered/sold to abroad via agents in Vietnam; imported goods to be sold to means of transport of foreign companies on international routes through Vietnam's ports and Vietnamese means of transport on international routes as prescribed by the Government

1. In common cases, necessary documents include:

a) 01 original copy of the request for import tax refund, which specifies:

- a.1) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported goods on which tax is to be refunded;
- a.2) The amount of import tax paid; the amount of import tax to be refunded;
- a.3) Numbers of payment document if payment is made via a bank;

a.4) Information about exported goods prescribed in Article 53 of this Circular.

b) 01 photocopy of the VAT invoice;

c) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

2. With regard to imported goods being drinks served on international flights, necessary documents include:

a) The documents mentioned in Point a and Point c Clause 1 of this Article;

b) A note of delivery of drinks to the international flight bearing the confirmation of the customs at the airport: 01 photocopy.

3. With regard to goods imported via a major trader e.g. oil, gas, etc. that may be sold to shipping companies for sale to foreign sea-going vessels, paid import tax shall be refunded after such goods are sold to the foreign ships. Necessary documents include:

a) The documents mentioned in Clause 1 of this Article;

b) A confirmation of the quantity, value of goods bought from the major importer that are supplied for foreign ships made by the shipping company, enclosed with a list of payment documents: 01 original copy. The shipping company is legally responsible for such confirmation.

Article 119. Application for refund of import tax on goods imported for manufacturing products meant to be exported to abroad or to a free trade zone and have been actually used in the free trade zone or exported to abroad

1. In case an entity imports materials/supplies for manufacturing of goods for export or hires domestic contract manufacturers (including those in free trade zones), overseas contract manufacturers, or cooperate in manufacturing of goods for export and receive products for export, necessary documents include:

a) 01 original copy of the written request for refund of tax on materials/supplies imported for manufacturing of goods for export, which specifies:

a.1) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;

a.2) The amount of import tax paid; the amount of import tax to be refunded;

a.3) Number of payment document if payment is made via a bank;

a.4) Information about exported goods prescribed in Article 53 of this Circular.

b) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

2. In case an entity imports materials/supplies to manufacture goods for sale in Vietnam, but then uses them to manufacture products for export which are then actually exported within 02 years from the registration date of the customs declaration of imported materials/supplies:

The application for tax refund is similar to that prescribed in Clause 1 of this Article.

3. In case the contract manufacturer actively imports materials/supplies (other than finished products) to perform a processing contract with a foreign entity without being required by such foreign entity:

The application for tax refund is similar to that prescribed in Clause 1 of this Article.

4. In case an entity imports materials/supplies for manufacturing certain products and then uses such products to process goods for export under a processing contract with a foreign party, necessary documents include:

a) 01 original copy of the written request for refund of tax on materials/supplies imported for manufacturing of goods for export, which specifies:

a.1) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;

a.2) The amount of import tax paid; the amount of import tax to be refunded;

a.3) The practical quantity of products that are manufactured and used by the importer to process products;

a.4) Number of payment document if payment is made via a bank;

a.5) Information about exported goods prescribed in Article 53 of this Circular.

b) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

5. In case an entity imports materials/supplies to manufacture products that are sold to another entity for manufacturing, processing products for export and such products have been exported, necessary documents include:

a) 01 original copy of the written request for refund of tax on materials/supplies imported for manufacturing of goods for export, which specifies:

a.1) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;

a.2) The amount of import tax paid; the amount of import tax to be refunded;

a.3) Quantity of goods sold;

a.4) Number of payment document if payment is made via a bank;

a.5) Information about exported goods prescribed in Article 53 of this Circular.

b) 01 photocopy of the VAT invoice between two entities;

c) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

6. In case an entity imports materials/supplies to manufacture products that are sold to another entity for export, and such products have been exported to abroad by the latter (the exporter), necessary documents include:

a) 01 original copy of the written request for refund of tax on materials/supplies imported for manufacturing of goods for export, which specifies:

a.1) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;

a.2) The amount of import tax paid; the amount of import tax to be refunded;

a.3) Quantity of goods sold to the exporter;

a.4) Number of payment document if payment is made via a bank;

a.5) Information about exported goods prescribed in Article 53 of this Circular.

b) 01 photocopy of the VAT invoice issued by the manufacturer to the exporter;

c) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

7. In case an entity imports materials/supplies to manufacture products that are sold to a foreign trader who requires that goods be delivered to another entity in Vietnam for manufacturing, processing products for export, necessary documents include:

a) 01 original copy of the written request for refund of tax on materials/supplies imported for manufacturing of goods for export, which specifies:

a.1) The number of declaration of imported goods used for manufacture goods that are sold to the foreign trader which is consistent with the categories and quantity of exported goods on the declaration of goods exported to the entity in Vietnam; goods names, line numbers, quantity on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the customs declaration of goods exported to the entity in Vietnam; number of the contract related to the exported or imported goods on which tax is to be refunded;

a.2) The amount of import tax paid; the amount of import tax to be refunded;

a.3) Number of payment document if payment is made via a bank;

b) The commercial invoice issued by the exporter;

c) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

8. In case materials/supplies are imported for manufacturing goods for export and such goods have been exported to abroad but are still kept at the exporter's overseas warehouse or in an overseas bonded warehouse or overseas transshipment port, necessary documents include:

a) 01 original copy of the written request for refund of tax on materials/supplies imported for manufacturing of goods for export, which specifies:

a.1) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;

a.2) The amount of import tax paid; the amount of import tax to be refunded;

a.3) Information about exported goods prescribed in Article 53 of this Circular.

- b) The declaration of imported goods issued by the customs of the importing country which shows that the importer is the overseas warehouse of the exporter or goods are sent to an overseas bonded warehouse or overseas transshipment port: 01 photocopy;
- c) A note of goods dispatch or documents proving goods are transshipped: 01 photocopy enclosed with the original for comparison;
- d) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

9. With regard to materials/supplies imported to manufacture goods for export to free trade zones:

The application for tax refund or tax cancellation shall comply with the instructions in Clauses 1, 2, 3, 4, 5, 6, of this Article. The written request for tax refund must specify that goods are actually used in the free trade zone or have been exported from the free trade zone to abroad.

Article 120. Application for refund of tax in goods temporarily imported, goods temporarily exported, goods temporarily imported under an entrustment contract with the foreign party and then re-exported (except for goods temporarily imported or temporarily exported to participate in a fair, exhibition, product introduction; machinery, equipment, instruments temporarily imported or temporarily exported to serve a convention, seminar, scientific research, sports competition, art performance, medical examination and treatment ... that are eligible for tax exemption)

1. 01 original copy of the written request for refund of import/export tax on goods temporarily imported for re-export, goods temporarily exported for re-import, or goods temporarily imported under an entrustment contract with a foreign party and then re-exported, which specifies:

- a) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the contract related to the imported or exported goods on which tax is to be refunded;
- b) The amount of import/export tax paid; the amount of import/export tax to be refunded;
- c) Number of payment document if payment is made via a bank;
- d) Information about exported tax prescribed in Article 53 of this Circular.

2. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 121. Application for refund of tax on exported goods that have to be imported back to Vietnam

1. 01 original copy of the written request for refund of tax on exported goods that have to be re-imported to Vietnam, which specifies:

a) The reasons for tax refund.

a.1) If goods have to be re-imported because the foreign client refuses to receive goods or there is no recipient as informed by the shipping company, it is required to have the foreign client's notification of or agreement on the return of goods or the shipping company's notification that there is no recipient, which specifies the reasons, quantity, categories, etc. of goods being returned (if goods are returned by the client) as prescribed in Article 47 of Decree No. 08/2015/NĐ-CP: 01 photocopy;

a.2) In case of a force majeure event or the taxpayer finds that goods are incorrect and re-imports them, the said document is not required. However, the reasons for re-import must be specified.

b) The number of the declaration of exported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of imported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;

c) The amount of export tax paid; the amount of export tax to be refunded;

d) Documents proving that goods have not been used for manufacturing, processing, repair, or use overseas;

dd) Number of payment document if payment is made via a bank;

e) Information about exported goods prescribed in Article 53 of this Circular.

2. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 122. Application for refund of import tax on imported goods that have to be re-exported to the foreign goods owners, re-exported to a third country, or re-exported to a free trade zone

1. 01 original copy of the written request for refund of import tax on imported goods that have to be re-exported to the foreign goods owners, re-exported to a third country, or re-exported to a free trade zone, which specifies:

a) The reasons for tax refund;

- b) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;
- c) The amount of import tax paid; the amount of import tax to be refunded;
- d) Number of payment document if payment is made via a bank;
- dd) Information about exported goods prescribed in Article 53 of this Circular.

2. 01 photocopy of the VAT invoice or sale invoice (in case goods are exported to a free trade zone); documents proving that export goods were previously imported (if the importer is different from the exporter);

3. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 123. Application for refund of tax on machinery, equipment, instruments, means of transported that are permitted to be temporarily imported for re-export to execute projects of construction, installation, manufacturing

1. 01 original copy of the request for tax refund, which specifies:

- a) The number of the declaration of imported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration); number of the declaration of exported goods (if any); number of the contract related to the imported or exported goods on which tax is to be refunded;
- b) Paid import tax; import tax to be refunded;
- c) The period over which goods are used and kept in Vietnam; ratio of depreciation and value distribution;
- d) Goods are not leased or lent;
- dd) Number of payment document if payment is made via a bank;
- e) Information about exported goods prescribed in Article 53 of this Circular.

2. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 124. Application for refund of tax on temporarily imported machinery, equipment, instruments that are not re-exported upon expiration of the temporary import period and instead transferred to another entity in Vietnam (the transferee), then exported from Vietnam by the transferee

1. The documents mentioned in Clause 1 Article 123 of this Circular.
2. 01 photocopy of VAT invoices or sale invoices of notes of goods dispatch given by the importer to the transferee.
3. In case of paper-based customs declaration, 01 original copy of the declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular must be submitted.

Article 125. Application for refund of tax on exported, imported goods sent by an overseas entity to another entity in Vietnam by post or international express mail and vice versa where tax has been paid by the service provider but goods cannot be delivered to the consignee and have to be re-exported, re-imported, confiscated, or destroyed

1. 01 original copy of the request for tax refund, which specifies:
 - a) The number of the declaration of imported, exported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration);
 - b) The amount of import, export tax paid; the amount of import export tax to be refunded;
2. 01 photocopy of the document proving goods cannot be delivered to the consignee.
3. 01 photocopy of the decision on confiscation or destruction of goods issued by a competent authority.
4. In case of paper-based customs declaration, 01 original copy of the declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular shall be submitted.

Article 126. Application for refund of import tax, export tax, and other taxes (if any) on exported or imported goods being supervised by the customs and are expropriated by a competent authority because of customs offenses

1. 01 original copy of the request for tax refund, which specifies:
 - a) The number of the declaration of imported, exported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration);

b) The amount of import/export tax paid; the amount of import/export tax to be refunded;

c) Number of payment document if payment is made via a bank;

2. 01 photocopy of the violation record.

3. 01 photocopy of the decision on expropriation of goods issued by a competent authority.

4. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 127. Application for refund of tax on goods that are granted tax exemption under a decision of a competent authority

1. 01 original copy of the written request for refund of tax on goods that are granted tax exemption under a decision of a competent authority, which specifies:

a) The number of the declaration of imported, exported goods on which tax is to be refunded; goods names, line numbers, quantity of goods on the customs declaration (in case of refund of part of the tax on the customs declaration);

b) The amount of import/export tax paid; the amount of import/export tax to be refunded;

c) Number of payment document if payment is made via a bank;

2. 01 photocopy of the decision on tax exemption issued by a competent authority.

3. In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 128. Application for tax cancellation

1. If goods are eligible for tax refund and exported or imported by the deadline for paying tax and/or tax is yet to be paid, the application for tax cancellation in each case is similar to the application for tax refund.

2. If goods are eligible for cancellation of export tax/import tax, the application for tax cancellation of export tax/import tax is similar to the application for refund of export tax/import tax.

3. If it is determined that goods are made entirely of imported materials which are not subject to export tax, the application for cancellation of export tax consists of:

a) 01 original copy of the written request for cancellation of export tax if goods are made entirely of imported materials, which specifies:

a.1) The number of the declaration of exported goods on which tax is to be cancelled; goods names, line numbers, quantity of goods on the customs declaration (in case of cancellation of part of the tax on the customs declaration); number of the declaration of imported goods (if any); number of the contract related to the exported goods on which tax is to be cancelled;

a.2) Quantity of imported materials/supplies used for manufacturing, processing goods for export;

a.3) The amount of export tax to be cancelled;

a.4) Number of payment document if payment is made via a bank.

b) 01 photocopy of description of the manufacturing process which shows that goods are made entirely of imported materials:

c) 01 photocopy of the VAT invoice, proof of payment between the importer and exporter (in case the importer sells goods for another enterprise to export instead of exporting goods itself);

d) In case of paper-based customs declaration, the declarant shall must submit the original declaration of exported or imported goods that are granted customs clearance as prescribed in Clause 1 Article 3 of this Circular.

Article 129. Procedures for submitting, receiving, and processing applications for tax refund and applications for tax cancellation

1. Applications for tax refund and applications for tax cancellation shall be submitted and received in accordance with Article 59 of the Law on Tax administration.

2. Time limit for submitting applications for tax refund and applications for tax cancellation (including the cases in which export tax, import tax is 0%):

a) The taxpayer shall decide the time for submitting the application for tax refund if taxes have been fully paid;

b) Time limit for submitting applications for tax cancellation:

b.1) Application for import tax cancellation:

b.1.1) With regard to goods imported for manufacturing of goods for export: Within 90 days from the end of the fiscal year, the taxpayer must submit the application for import tax cancellation for the declarations of exported goods made during the fiscal year to the customs authority.

The taxpayer may decide whether to submit several applications for import tax cancellation or only one application for import tax cancellation together with the statement mentioned in Article 60 of this Circular as long as they are submitted by the said deadline;

b.1.2) In other cases: The application for import tax cancellation must be submitted within 60 days from the registration date of the latest declaration of exported goods.

b.2) Application for export tax cancellation:

The application for export tax cancellation must be submitted within 60 days from the registration date of the latest declaration of imported goods.

c) Any entity that fails to submit the application for tax cancellation is not submitted by the said deadline. The collection of tax, late payment interest, and tax enforcement shall comply with regulations of law on taxation;

d) Tax settlement in case goods are not exported by deadline for paying tax:

d.1) The taxpayer may delay declaring and paying VAT on the quantity of materials/supplies in imported for manufacturing of goods for export that are in stock, unused, or products derived wherefrom are yet to be exported on the basis of the inspection result mentioned in Article 59 of this Circular.

If VAT is paid before the effective date of this Circular, the taxpayer shall receive a refund of VAT as instructed in Article 49 of this Circular when goods derived from imported materials/supplies are exported;

d.2) With regard to goods temporarily imported for re-export: the taxpayer must declare all taxes and late payment interest (if any) from the deadline for paying tax.

If goods are repurposed or sold domestically instead of being re-exported, tax shall be declared and paid in accordance with Article 21 of this Circular.

dd) With regard to materials/supplies imported for manufacturing of goods for export, goods temporarily imported for re-export, the 275-day time limit shall be applied, tax enforcement shall be delayed if the application for tax cancellation has been submitted and all of the following conditions are satisfied:

dd.1) With regard to materials/supplies imported for manufacturing of goods for export:

dd.1.1) All of the imported materials/supplies are used for manufacture of goods for export, such products are already exported by or after the end of the 275 day period (in case of permitted tax deferral) materials, and import tax on excess materials/supplies (if any) has been fully paid by or after the end of the 275 day period (in case of permitted tax deferral).

dd.1.2) The taxpayer only owes tax on materials/supplies imported for manufacture of goods for export pending issuance of a decision on tax cancellation by the customs authority.

dd.2) With regard to goods temporarily imported for re-export:

dd.2.1) Goods have been partially or completely exported and tax on the quantity of goods that are not re-exported by deadline for paying tax has been fully paid;

dd.2.2) The taxpayer only owes tax on re-exported goods pending issuance of a decision on tax cancellation by the customs authority.

dd.3) The taxpayer has submitted a satisfactory application for tax cancellation by the deadline mentioned in Point b Clause 2 of this Article to the customs authority.

3. The Sub-department of Customs shall receive, process applications for tax cancellation, and impose administrative penalties (if any).

4. Applications for tax refund/tax cancellation are classified into applications subject to inspection before tax refund/tax cancellation and applications eligible for tax refund/tax cancellation before inspection.

5. An application is eligible for tax refund/tax cancellation before inspection if the taxpayer satisfies all of the following conditions:

a) The taxpayer has engaged in export and import for at least 365 days up to the registration date of the customs declaration. Over the last 365 days from the registration date of the customs declaration, the customs authority determines that:

a.1) The taxpayer has not incurred penalties imposed by the customs for smuggling or illegal transport of goods across the border;

a.2) The taxpayer has not incurred penalties imposed by the customs for tax evasion or tax fraud;

a.3) The taxpayer does not incur more than two penalties for other customs offenses (including understatement of tax payable or overstatement of tax exemption, refund, reduction, cancellation) that result in a fine beyond the competence of the Director of the Sub-department of Customs according to the Law on Actions against administrative violations;

b) The taxpayer does not owe overdue tax, late payment interest, or fine when the customs declaration is registered;

c) Payment is made via a bank (the name of the bank and account must be specified in the request for tax refund).

d) Not in the following cases:

d.1) The application for tax refund is subject to inspection before refund according to regulations of law on tax administration;

d.2) Imported goods subject to special excise tax according to the Law on special excise duty;

d.3) Exported or imported goods are eligible for tax refund in Clauses 4, 5, 6, 7, 8, 9 Article 114 of this Circular;

d.4) The importer that submits the application for refund/cancellation is not the exporter;

d.5) The application for refund/cancellation is submitted by an enterprise that has been established within the last 25 months from the submission date;

d.6) An application for refund of interest on late payment of VAT prescribed in Point d.1 Clause 2 of this Article.

6. An application is subject to inspection before tax refund/tax cancellation if the taxpayer is not in the cases of tax refund/tax cancellation before inspection mentioned in Clause 5 of this Article.

Inspections shall be carried out at the taxpayer's premises as prescribed in Article 130 of this Circular.

If the inspection result shows that the taxpayer's declaration is accurate, the customs authority shall issue a decision on tax refund/tax cancellation within 30 days from the day on which the satisfactory application is received.

7. When processing application for tax refund and applications for tax cancellation eligible for tax refund/tax cancellation before inspection, the customs authority shall:

a) Delay carrying out an inspection at the taxpayer's premises;

b) Examine the application, check the consistency and legitimacy of the documents, the amount of tax to be refunded and tax on the corresponding declaration on the tax accounting system of the customs, check the customs dossier and information about actual export, import of goods according to this Circular, and perform the following tasks:

b.1) If the taxpayer's declaration is accurate, the customs authority shall issue a decision on tax refund (form No. 11/QĐHT/TXNK in Appendix VI enclosed herewith) or a decision on tax cancellation (form No. 12/QĐKTT/TXNK in Appendix VI enclosed herewith) within -6 working days from the day on which the satisfactory application is received;

b.2) If the application is not eligible for tax refund/tax cancellation, the customs authority shall provide explanation for the taxpayer within 05 working days from the day on which the satisfactory application is received;

b.3) If there is sufficient basis for determining that the taxpayer's declaration is not accurate or the basis for tax refund is not ample, the customs authority shall notify the taxpayer of the application being subject to inspection before tax refund/tax cancellation within 06 working days from the day on which the application is received;

b.4) After a decision on tax refund or tax cancellation is issued, the customs authority shall settle the overpaid tax, late payment interest, and fines in accordance with Article 132 of this Circular. If the inspection carried out after tax refund/tax cancellation reveals that the taxpayer is not eligible for tax refund/tax cancellation, the customs authority shall revoke the decision on tax refund/tax cancellation, impose tax, and take appropriate actions.

If the document inspection reveals that temporarily imported goods are not re-exported or imported materials/supplies are not used for manufacturing, regulations in Article 21 of this Circular shall apply.

8. The time limit for inspection after tax refund/tax cancellation shall comply with the risk management principles in section 1 Chapter II of this Circular within 10 years from the day on which the decision on tax refund/tax cancellation is issued.

Inspection after tax refund shall be carried out at the taxpayer's premises as prescribed in Article 130 of this Circular.

9. When processing an application for tax refund, apart from the regulations in Clauses 4, 5, 6, 7, 8 of this Article, the customs authority shall compare the customs dossier and the application for tax refund with information about actual export, import of goods on the System as prescribed in this Circular.

10. After the said deadline, if the late issuance of the decision on tax refund/tax cancellation is on account of the customs authority, the customs authority shall pay an interest on the period from the intended issuance date of the decision on tax refund to the actual issuance date of the decision on tax refund in addition to the refund of tax.

11. With regard to goods eligible for tax refund according to Article 114 of this Circular or exempt from import tax on goods serving execution of a processing contract, if the original copy of the customs declaration which is kept by the declarant is not submitted while following tax refund/tax cancellation procedures and the taxpayer is permitted by the customs authority to use a certified true copy of the declaration kept by the customs authority, the following procedures shall be followed:

a) With regard to goods imported and exported at the same Sub-department of Customs (except for those eligible for tax refund prescribed in Clause 5, Clause 7, Clause 8 Article 114 of this Circular and Point b of this Clause):

a.1) The taxpayer shall make a report on the loss of the declaration and a request for permission for the use of a certified true copy of the declaration kept by the customs authority. The report must be enclosed with documents proving the loss of the declaration;

a.2) In consideration of the taxpayer's request, the Sub-department of Customs where customs procedures are followed shall perform the tasks below:

a.2.1) Within 05 working days from the receipt of the taxpayer's request, the customs authority shall:

a.2.1.1) Examine the documents submitted;

a.2.1.2) Make a certified true copy of the declaration kept by the customs authority if the report is determined to be true. Only 01 certified true copy shall be made for a declaration, and a note must be written on the original copy of the declaration kept by the customs authority in order to avoid making multiple copies. The note is "tờ khai đã được sao y bản chính 01 bản ngày...tháng...năm" ("01 certified true copy made on ...")

a.2.1.3) Notify every Customs Department of the loss of the declaration kept by the taxpayer and the use for certified true copy of the declaration; that the original declaration kept by the taxpayer is no longer valid nationwide;

a.2.2) According to the application for tax refund or tax cancellation, the certified true copy of the declaration kept by the customs authority, the tax-refunding customs authority shall compare with data on the accounting system of the customs and other information sources (if any), carry out an inspection, and then grant tax refund/tax cancellation if the inspection result shows that goods have been actually exported and tax refund/tax cancellation has not been granted to the said declaration;

a.2.3) Take actions against violations committed.

b) In other cases:

b.1) The taxpayer shall make a report on the loss of the declaration and request permission for the use of a certified true copy of the declaration kept by the customs authority. The report must be enclosed with documents proving the loss of the declaration;

b.2) In consideration of the taxpayer's request, the customs authority shall:

b.2.1) Request Customs Departments to send confirmation that tax refund/tax cancellation has not been granted for the declaration that is lost and request them not to grant tax refund/tax cancellation to the original copy of the declaration that is lost.

The Customs Departments shall check the tax accounting system of the customs and other information sources within 05 working days from the receipt of the request. If the result shows that tax refund/tax cancellation has not been granted to the lost declaration, the Customs Department shall send a confirmation to the customs authority where customs procedures are followed and take responsibility for such confirmation, and shall not grant tax refund/tax cancellation to the lost declaration;

b.2.2) After receiving all confirmations from Customs Departments, the customs authority shall:

b.2.2.1) Examine the documents submitted;

b.2.2.2) Make a certified true copy of the declaration kept by the customs authority if the report is determined to be true. Only 01 certified true copy shall be made for a declaration, and a note must be written on the original copy of the declaration kept by the customs authority in order to avoid making multiple copies. The note is “tờ khai đã được sao y bản chính 01 bản ngày...tháng...năm” (“01 certified true copy made on ...”)

b.2.2.3) Notify every Customs Department of the loss of the declaration kept by the taxpayer and the use for certified true copy of the declaration;

b.2.3) According to the request for use of certified true copy of the declaration, the customs authority that considers granting tax refund/tax cancellation shall compare information on the application for tax refund/tax cancellation and certified true copy of the declaration with information on the tax accounting system and other information sources; carryout an inspection, and grant tax refund/tax cancellation if the inspection result shows that goods have been exported and tax refund/tax cancellation has not been granted to the said declaration.

b.2.4) Take actions against violations committed.

12. The customs authority shall issue a decision on cancellation of import tax on re-imported goods that were previously exported, cancellation of export tax on goods re-exported or exported to a third country or a free trade zone that were previously imported if the declarant has submitted a satisfactory application for tax cancellation as instructed in Article 121 or Article 122 of this Circular (in case of cancellation of export tax on goods re-exported or exported to a third country or to a free trade zone, the customs authority shall not require the taxpayer to provide documents, information about exported goods as prescribed in Article 53 of this Circular) and there is sufficient basis for the customs authority to determine that imported goods were previously exported or exported goods were previously imported.

The customs authority shall consider granting tax cancellation within the time limit for customs procedures prescribed in Article 23 of the Law on Customs.

13. The Director of the Sub-department of Customs where the customs declaration is registered shall decide the grant of tax refund/tax cancellation in accordance with this Circular.

Article 130. Inspecting the application for tax refund/tax cancellation at the taxpayer's premises

1. Clauses 2, 3, 4, 5, 6, Article 59 and Clause 5 Article 60 of this Circular shall apply to goods imported for manufacture of goods for export.

2. In other cases:

a) Procedures are similar to those in Clauses 3, 4, 5, 6 Article 59 of this Circular;

b) Inspection contents:

b.1) The customs dossier, application for tax refund/tax cancellation, accounting records, accounting books; inventory logbooks, and other documents related to the exported or imported goods shall be inspected;

b.2) If there is not sufficient basis for the customs authority to decide tax refund/tax cancellation after inspecting the documents mentioned in Point b.1 of this Clause, the customs authority shall:

b.2.1) Inspect the inventory;

b.2.2) Inspect the quantity of products that are yet to be exported.

Article 131. Update of information about tax refund and tax cancellation

1. According to the decision on tax refund/tax cancellation, the customs authority shall provide the refund and update information about the tax refund on the System. In case of paper-based customs declaration, apart from updating tax refund information on the System, the customs authority must provide the refund and append a seal on the customs declaration submitted by the taxpayer saying “Hoàn thuế (không thu thuế)... đồng, theo Quyết định số ... ngày ... tháng ... năm ... của ...” (“ VND ... refunded under Decision No. ... dated ... of ...”). The seal template is provided in form No. 18/MDHT/TXNK in Appendix VI enclosed herewith and return the original customs declaration to the taxpayer.

The General Department of Customs shall develop a database system for management of information about refund and cancellation of tax on exported or imported goods.

2. In case a paper declaration must be enclosed with the application for tax refund and is used for multiple times of tax refund/tax cancellation, the customs authority shall:

a) Keep a log of tax refund/tax cancellation, take note on the customs declaration;

b) When granting tax refund/tax cancellation, the customs authority must specify the amount of tax refunded/cancelled each time and append the “tax refunded/tax cancelled” seal on the log;

c) Append the “tax refunded/tax cancelled” seal on the customs declaration kept by the taxpayer at the last time of tax refund/cancellation;

d) Make a copy of the declaration on which tax has been refunded or cancelled, enclose it with the application for tax refund/tax cancellation, and return the customs declaration to the taxpayer;

dd) The total of import tax, exported refunded/cancelled must correspond to the quantity of goods actually exported/imported.

Article 132. Settlement of excess tax, late payment interest, or fine after a decision on refund of overpaid tax, late payment interest, or fine is issued

1. If refund of overpaid tax, late payment interest, fines is extracted from a deposit account, the customs authority must check the Concentrated Accounting System and follow the steps below:

a) If the taxpayer no longer owes tax, late payment interest, or fine, the overpaid amount shall be refunded to the taxpayer as prescribed;

b) If the taxpayer has to enclose a paper declaration with the application for tax refund, when offsetting the overpaid amount against the tax, late payment interest, fines incurred by the taxpayer afterwards, the customs authority must specify the amount of offset tax, number and date of the refund decision and the offsetting decision, numbers and dates of the corresponding customs declarations on the original copy of the decision on tax refund and original copies of customs declarations that are kept by the taxpayer and the customs authority (form No. 18/MDHT/TXNK in Appendix VI enclosed herewith);

c) If the taxpayer still owes outstanding tax, late payment interest, fine of shipments with the same import purpose which must be paid to the deposit account, the customs authority shall offset the overpaid amount against the outstanding amount;

d) If the taxpayer still owes outstanding tax, late payment interest, fine of shipments with different import purposes, the customs authority shall make a notice of payment to state budget or to the deposit account in order to pay the outstanding amounts on behalf of the taxpayer;

dd) If the overpaid amount is not completely offset, the customs authority shall return the remaining amount after offsetting to the taxpayer;

e) If the taxpayer wishes to offset such remaining amount against the tax on the next export or import instead of receiving it, the customs authority shall offset the amounts in accordance with instructions in Point c and Point d of this Clause;

g) When refunding or offsetting the remaining amount against the tax, late payment interest, fine incurred afterwards, the customs authority shall update the decision on tax refund, corresponding customs declarations, proof of tax payment on the Concentrated Accounting System

2. In case the refund of overpaid tax, late payment interest, fines is covered by state budget:

a) If the taxpayer does not owe outstanding tax, late payment interest, or fines and does not wish to offset the overpaid amount against the amount payable afterwards, the customs authority shall send a refund order together with the decision on tax refund to the State Treasury. If the customs authority has offset part of the same tax or among the taxes in the same administrative division, the refund order must specify the remaining amount to be refunded. According to the decision on tax refund issued by the customs authority, the State Treasury shall provide the refund to the taxpayer;

b) If the taxpayer still owes outstanding tax, late payment interest, fines of other shipments and wishes to offset the amount refunded against the amount payable, the taxpayer must complete form No. C1-05/NS enclosed with Circular No. 08/2013/TT-BTC dated January 10, 2013 of the Ministry of Finance on guidelines for Treasury and Budget Management Information System, specify the amount being offset against, and send it to the customs authority for consideration. After the customs authority has carried out an inspection and determined that the amounts offset are of the same tax or of different taxes incurred in the same administrative division, the customs authority shall send a refund order together with the decision on refund of overpaid tax, late payment interest, fine, and form No. C1-05/NS to the State Treasury or the commercial bank where tax is refunded.

3. If the customs authority finds that the taxpayer still owes other outstanding tax, late payment interest, or fines but does not wish to offset the amount to be refunded against the amount payable, the customs authority shall suspend the refund and request the taxpayer to fulfill their liabilities or to make a request for offsetting. If the taxpayer fails to fulfill their liabilities (or fails to make a request for offsetting) by the deadline notified by the customs authority, the customs authority shall complete and send form No. C1-05/NS enclosed with Circular No. 08/2013/TT-BTC to the State Treasury and notify the taxpayer.

4. In case of overpayment or incorrect payment:

a) In case the taxpayer makes incorrect payments during the fiscal year before the deadline for adjusting the state budget statement and has not made a declaration with the tax authority (in case of overpayment or incorrect payment of VAT), if the taxpayer still owes outstanding tax, late payment interest and wishes to offset the amount to be refunded against the amount payable, the taxpayer shall complete form No. C1-07/NS enclosed with 759/QĐ-BTC dated April 16, 2013 of the Ministry of Finance;

b) If the taxpayer no longer owes tax and/or late payment interest and wishes to receive a refund of the overpaid or incorrectly paid amount:

b.1) The customs authority shall issue a decision on refund of overpaid tax, late payment interest, fines (form No. 11/QĐHT/TXNK in Appendix VI enclosed herewith, complete form No. C1-04/NS enclosed with Decision No. 759/QĐ-BTC of the Ministry of Finance (including the copies sent to relevant entities as prescribed in Circular No. 128/2008/TT-BTC and 01 copy sent to the tax authority after the State Treasury certifies the tax refund), and send it to the State Treasury that collected the amount. State Treasury shall make the refund and certify that tax has been refunded on form no. C1-04/NS.

b.2) The customs authority that issues the decision on settlement of overpaid or incorrectly paid VAT upon importation shall send 01 copy of the decision on tax refund; the State Treasury shall send 01 copy of form No. C1-04/NS which certifies the refund of overpaid or incorrectly paid VAT on imported goods to the supervisory Department of Taxation in order to recover the amount of VAT that was offset or refunded (if any);

b.3) The taxpayer shall adjust the VAT refunded by the customs authority but then offset or refunded by the tax authority.

5. The refund shall be made as follows:

a) In case of tax offsetting, the customs authority shall check the Concentrated Accounting System and follow the steps below:

a.1) If the taxpayer no longer owes tax, late payment interest, or fine, the overpaid amount shall be refunded to the taxpayer as prescribed;

a.2) When offsetting the overpaid amount against the tax, late payment interest, fine incurred by the taxpayer afterwards, the customs authority shall update the declaration on the Concentrated Accounting System.

b) If the State Treasury that makes the refund tax also the State Treasury that collected tax, the refund shall be made in accordance with Point a Clause 2 of this Article. State budget revenues shall be accounted for according to the order of the customs authority; the excess tax, late payment interest, fine that remains shall be returned to the taxpayer;

c) If the State Treasury that makes the refund is different from the State Treasury that collected tax, the refunding State Treasury shall record the refund of tax in accordance with Clause 1 of this Article and transfer the refunded amount together with the collection order to the State Treasury that collected tax.

After tax is refunded, the State Treasury shall send a copy of the tax refund document to the customs authority that issued the decision on refund.

Section 5. Late payment interest, tax payment in instalments, tax deferral; cancellation of tax and fines

Article 133. Late payment interest

1. Late payment interest shall be charged in the following cases:

a) Tax is paid behind the deadline, deferred deadline, deadline written in the notification, decision on penalties for tax offenses issued by the customs authority, and tax decision issued by a competent authorities (hereinafter referred to as “deadline for paying tax”);

b) Tax is underpaid because of incorrect statement of tax payable, exemption, reduction, refund of tax;

c) Tax is paid by instalments as prescribed in Article 134 of this Circular;

d) Goods are declared to be eligible for tax exemption, preferential tax rates, tax rates within tariff-rate quota, but the inspection result reveals that they are not.

2. The organization that collects tax (hereinafter referred to as “tax collector”) fails to transfer the collected tax to state budget on schedule shall pay late payment interest for the period from the deadline for transferring money to state budget to the day preceding the day on which money is transferred.

3. The guarantor shall pay late payment interest if the taxpayer fails to fully pay tax to state budget by the end of the guarantee period.

4. Determination of late payment interest rate:

a) The late payment interest rate is 0.05% per day on the tax paid behind schedule for the late payment period;

b) The late payment period is from the day succeeding the deadline for paying tax to the day succeeding the day on which tax is paid by the taxpayer, tax collector, or guarantor to state budget;

c) If the tax arrears are found from January 01, 2015, whether by inspectors or taxpayers themselves, late payment interest rate shall be 0.05% per day.

5. The taxpayer or tax collector shall determine the late payment interest according to Clause 4 of this Article and pay it to state budget.

If the taxpayer, tax collector, or guarantor fails to determine the interest or fails to determine the correct interest, the customs authority to which tax is paid, the tax collector, or the guarantor shall determine the late payment interest and notify the taxpayer, tax collector, or guarantor

6. If the taxpayer, tax collector, or guarantor fails to pay tax and late payment interest within 30 days from the deadline for paying tax, the customs authority shall notify the taxpayer, tax collector, or guarantor of the amount of tax and late payment interest (form No. 19/TB-TTN-TCN1/TXNK and 20/TB-TTN-TCN2/TXNK in Appendix VI enclosed herewith)

7. The taxpayer is not required to late payment interest in case imported materials/supplies that are meant to manufacture goods for export are re-exported; late payment interest shall not be charged on tax arrears over the tax deferral period.

8. In the case of late payment of tax prescribed in Clause 4 Article 5 of the Law No. 71/2014/QH13 and Clause 7 Article 5 of Decree No. 12/2015/NĐ-CP, tax shall not be enforced and late payment interest shall not be charged for the period over which payment is delayed by state budget. The tax arrears exempt from late payment interest must not exceed the amount that is yet to be paid by state budget.

Article 134. Paying tax debt in instalments

1. If all of the conditions in Clause 1 and Clause 2 Article 39 of the Decree No. 83/2013/NĐ-CP are satisfied, tax debt may be paid in instalments for up to 12 months from the beginning date of

the tax enforcement period. The taxpayer shall register and make a commitment to pay debt tax by instalments as follows:

a) Tax debt that is exceeding VND 500 million but not exceeding VND 1 billion shall be paid within 03 months;

b) Tax debt that is exceeding VND 1 billion but not exceeding VND 2 billion shall be paid within 06 months;

c) Tax debt that is exceeding VND 2 billion shall be paid within 12 months. The taxpayer that fails to pay tax debt as committed is no longer permitted to pay tax debt in instalments. In this case, the guarantor shall pay tax debt and late payment interest on behalf of the taxpayer as prescribed in Article 39 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 9 Article 5 of Decree No. 12/2015/NĐ-CP.

2. Application includes:

a) A written request for permission to pay tax debt in instalments sent by the taxpayer to a competent customs authority, which provides explanation for not paying tax in a lump sum and is enclosed with a registration form: 01 original copy;

b) The customs declaration that has the tax debt; the customs authority's notification of the tax debt (if any): 01 photocopy.

In case of electronic customs procedures or paying tax debts in instalments at the Sub-department of Customs where the customs declaration is registered, this document may be omitted;

c) A letter of guarantee by a credit institution for the tax debt being paid in instalments as prescribed in Article 43 of this Circular: 01 original copy.

3. Entitlements to permit payment of tax debt by instalments:

a) If the tax debt to be paid in instalments is incurred at one Sub-department of Customs, the case shall be decided by its Director;

b) If the tax debt to be paid in instalments is incurred at multiple Sub-department of Customs under the management of the same Customs Department, the case shall be decided by the Director of such Customs Department;

c) If the tax debt to be paid in instalments is incurred at multiple Customs Departments, the case shall be decided by the Director of the General Department of Customs.

4. Time limit:

a) If the application is satisfactory, within 05 working days, the customs authority shall issue a decision to whether permit or not permit the payment of tax debt in instalments;

b) If the application is not satisfactory, within 03 working days from its receipt, the customs authority shall request the taxpayer in writing to complete the application.

If the taxpayer fails to complete the application within 05 working days from the receipt of the request from the customs authority, the application shall be rejected.

Article 135. Extension of deadline for paying tax, late payment interest, fines

1. The extension of the deadline for paying tax, late payment interest, fines (hereinafter referred to as tax deferral) shall be considered in the cases mentioned in Clause 1 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP.

2. The application for tax deferral is specified in Clause 2 Article 51 of the Law on Tax administration, which consists of:

a) A written request for tax deferral which specifies the reasons for deferral, the amount that needs deferring, and deferral period. If the tax, late payment interest, fines that need deferring are of different customs declarations, they must be enumerated. A commitment to provide accurate information; a plan and commitment to fully pay tax, late payment interest, and fines: 01 original copy;

b) The customs declaration of the tax, late payment interest, fines that need deferring (except for electronic customs procedures or deferral procedures at the Sub-department of Customs where the customs declaration is registered); the sale contract: 01 photocopy (if the case is within the competence of the Director of the Sub-department of Customs); the tax declaration of the tax, late payment interest, fines that need deferring: 02 photocopy (if the case is beyond the competence of the Director of the Sub-department of Customs); a report on the amount of tax, late payment interest, fines incurred at the time of occurrence of the causes: 01 original copy;

c) In the case prescribed in Point a Clause 1 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP, the following documents are required:

c.1) A record on determination of damage issued by a competent authority;

c.2) A written confirmation of the conflagration made by the local fire department; a written confirmation of a the People's Committee of the commune where the natural disaster or accident occurs: 01 original copy;

The aforementioned documents shall be made right after the natural disaster, conflagration, or accident occurs.

d) In the case prescribed in Point b Clause 1 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP, the following documents are required:

d.1) A decision to withdraw the old business premises issued by a competent authorities: 01 photocopy;

d.2) A written certification by the People's Committee of the commune that the enterprise has to suspend its business operation because of relocation: 01 original copy;

d.3) Documents proving the direct damage caused by relocation of the business premises. The damage is determined according to the documents and regulations of law, including: remaining value of facilities and equipment in which investment cannot be recovered after dismantlement (cost price after deduction of depreciation), cost of dismantlement, cost of relocation and installation at the new premises (after deduction of withdrawal cost), payment to employees for work suspension (if any), other complicated cases related to other fields that need opinions from professional agencies: 01 original copy;

dd) With regard to materials/supplies imported for manufacture of goods for export that satisfy the conditions in Clause 1 Article 42 of this Circular and Point c Clause 1 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP: In the written request for deferring tax longer than 275 days, the taxpayer must explain the reserve of materials/supplies, describe the manufacturing process and time that suit that reserve of materials/supplies: 01 original copy; documents proving that the foreign client terminates the contract and the tax deferral is the result of deferred delivery date on the export contract: 01 photocopy;

e) If the taxpayer faces other special difficulties prescribed in Point d Clause 1 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP, it is required to have documents proving the inability to pay tax on schedule because of such special difficulties.

3. The amount of tax, late payment interest, fines that are deferred shall comply with Clause 2 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP.

4. The deferral period shall comply with Clause 3 Article 31 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP.

5. Procedures for deferral:

a) The taxpayer eligible for tax deferral as prescribed in Point a, Point b, Point c Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP shall make and send an application for tax deferral to the customs authority to which outstanding tax, late payment interest, fines are owed;

b) The taxpayer facing special difficulties that are considered by the Prime Minister at the request of the Minister of Finance shall make and send the application for tax deferral to the General Department of Customs;

c) The customs authority shall receive, verify information, and process the application in accordance with Article 52 of the Law on Tax administration.

With regard to imported materials/supplies for manufacture of goods for export mentioned in Point c Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP, the Sub-department of Customs where the customs declaration is registered shall receive, check the application, and perform the following tasks:

c.1) Notify the taxpayer if the application is not satisfactory within 03 working days from the day on which the application is received;

c.2) Request the Customs Department to consider approving the tax deferral longer than 275 days within 10 working days from the day on which the application is received if the application is satisfactory;

c.3) Carry out a site inspection if it is necessary to verify the manufacturing cycle, reserve of materials/supplies. The inspection and decision on tax deferral must be done within 30 working days from the day on which the application is received if the application is satisfactory. It is required to make a record on the inspection which specifies the cycle of manufacturing products from the materials/supplies on which tax needs deferring. After the inspection result is given:

c.3.1) If the conditions for extending tax deferral period beyond 275 days are not satisfied, the Customs Department must send a written notification to the taxpayer within 03 working days from the day on which the inspection result is given;

c.3.2) If conditions are satisfied, the Customs Department shall issue an approval for tax deferral longer than 275 days within 03 working days from the day on which the inspection result is given.

d) The General Department of Customs shall receive applications for tax deferral in cases of special difficulties prescribed in Point d Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP, send reports to the Minister of Finance and the Prime Minister to consider on a case-by-case basis.

6. Entitlements to grant tax deferral

a) The Director of the Sub-department of Customs is entitled to grant tax deferral in the cases mentioned in Point a and Point b Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP in which the tax, late payment interest, fines that need deferring are only incurred at one Sub-department of Customs;

b) The Director of the Customs Department is entitled to grant tax deferral in the cases mentioned in Point a and Point b Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP in which the tax, late payment interest, fines that need deferring are incurred at multiple Sub-departments of Customs under the management of that same Customs Department; and the case in which materials/supplies are imported for manufacture of goods for export prescribed in Point c Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP;

c) The Director of the General Department of Customs is entitled to grant tax deferral in the cases mentioned in Point a and Point b Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP in which the tax, late payment interest, fines that need deferring are incurred at multiple Customs Departments;

d) The Prime Minister shall decide the case of special difficulties prescribed in Point d Clause 1 Article 31 of Decree No. 83/2013/NĐ-CP, which is amended in Clause 8 Article 5 of Decree No. 12/2015/NĐ-CP, at the request of the Minister of Finance..

7. Customs Departments and Sub-departments of Customs shall make summary reports on the deferred tax, late payment interest, and fines as instructed by the General Department of Customs.

Article 136. Cancellation of outstanding tax, late payment interest, fines

1. The entities mentioned in Clauses 1, 2, 3 Article 65 of the Law on Tax administration, which are amended in Clause 20 Article 1 of the Law No. 21/2012/QH13, are eligible for cancellation of outstanding tax, late payment interest, and fines (hereinafter referred to as “debt cancellation”).

2. Conditions for debt cancellation in the case mentioned in Clause 3 Article 65 of the Law on Tax administration shall comply with Point Clause 1 Article 32 of the Decree No. 83/2013/NĐ-CP.

3. An application for debt cancellation:

a) 01 original copy of the written request for debt cancellation of the Customs Department to which the taxpayer owes tax, late payment interest and fines who is eligible for debt cancellation. The request must specify the reasons and amount of tax, late payment interest, and fines to be cancelled;

b) The customs dossier of the amount of tax, late payment interest, fines to be cancelled: 01 photocopy (unless it is already submitted when registering the customs declaration);

c) Other documents related to the request for debt cancellation on a case-by-case basis. Particularly:

c.1) In the case mentioned in Clause 1 Article 65 of the Law on Tax administration:

01 photocopy of the decision of a competent authority on the enterprise's declaration of bankruptcy;

c.2) In the case mentioned in Clause 2 Article 65 of the Law on Tax administration:

A death certificate or a court's declaration of missing person; a court's decision that a person is incapable of civil acts, or documents proving that a person is dead, missing, incapable of civil acts: 01 photocopy;

c.3) In the case in Clause 3 Article 65 of the Law on Tax administration, which is amended in Clause 20 Article 1 of the Law No. 21/2012/QH13:

Documents enclosed with the tax enforcement dossier showing that all enforcement measures have been taken (including the ultimate measure: revocation of the Certificate of Business Registration or Certificate of Business registration or certificate of investment. If the Certificate of Business Registration or Certificate of Business registration or certificate of investment cannot be revoked, it is required to have a written certification of a competent authorities: 01 set of photocopies.

4. Procedures and time for debt cancellation:

a) The entitlement to debt cancellation is specified in Article 67 of the Law on Tax administration, which is amended in Clause 22 Article 1 of the Law No. 21/2012/QH13;

b) Procedures:

b.1) the Director of the Customs Department shall verify the documents and requests for debt cancellation, and send them to a competent authority as prescribed;

b.2) The Director of the General Department of Customs shall consider debt cancellation in the cases within his/her competence or receive, verify the documents and requests for debt cancellation, and send them to the Ministry of Finance in the cases within the competence of the Ministry of Finance, or request the Ministry of Finance to send them to the Prime Minister in the cases within the competence of the Prime Minister;

b.3) Presidents of the People's Committee of the same province with the Customs Department to which the enterprise owes tax debt shall consider debt cancellation in the case within his/her competence.

c) The time limit for processing applications for debt cancellation is specified in Article 68 of the Law on Tax administration.

Section 6. Fulfillment of tax liability

Article 137. Fulfillment of tax liability upon exit

1. Any Vietnamese citizen that exits to residents overseas, Vietnamese citizen that resides overseas, foreigner that owes tax, late payment interest, fines on exported or imported goods must fulfill his/her tax liability before exiting from Vietnam.
2. The customs shall send written or electronic notification to the immigration authority of the tax liability of individuals that still owe tax, late payment interest, fines on exported or imported goods. The notification shall contain names of the persons that have not fulfilled their tax liability, their dates of birth, nationalities, ID/passport numbers, and their supervisory customs authorities.
3. The immigration authority shall suspend every person who has not fulfilled his/her tax liability as prescribed in Clause 1 of this Article from exit in accordance with Article 53 of the Law on Tax administration and Clause 3 Article 40 of the Decree No. 83/2013/NĐ-CP, which is amended in Clause 10 Article 5 of Decree No. 12/2015/NĐ-CP.

Article 138. Fulfillment of tax liability upon dissolution, bankruptcy, and shutdown

1. The fulfillment of tax liability upon dissolution, bankruptcy, and shutdown shall comply with Article 54 of the Law on Tax administration, regulations of law on enterprises, cooperatives, and bankruptcy. Responsibility to fulfill tax liability upon dissolution, bankruptcy, and shutdown:
 - a) Owners of private companies, owners of single-member limited liability companies, Chairpersons of the Board of members, members of the Board of members, legal representatives of multi-member limited liability company; the Boards of Directors joint-stock companies or enterprise liquidation organizations are responsible for fulfillment of tax liability of enterprises upon their dissolution;
 - b) The cooperative dissolution council is responsible for fulfillment of tax liability of the cooperatives upon its dissolution;
 - c) The asset management and liquidation council is responsible for fulfillment of the enterprise's tax liability in case of bankruptcy.
2. Responsibility to fulfill tax liability in case an enterprise is shut down without following procedures for dissolution or bankruptcy:
 - a) When an enterprise whose tax liability is unfulfilled is shut down without following procedures for dissolution or bankruptcy, its owner (if the enterprise is a private company), the President of the Member assembly or owner (if the enterprise is a limited liability company), the President of the Board of Directors (if the enterprise is a joint-stock company), or the head of management board (if the enterprise is a cooperative) is responsible for paying the outstanding tax;
 - b) When a household or sole trader whose tax liability is unfulfilled shuts down the business, the owner of the household or the sole trader is responsible for paying the outstanding tax;

c) When an artel whose tax liability is unfulfilled is shut down, the head of the artel is responsible for paying the outstanding tax.

Article 139. Fulfillment of tax liability in case of restructuring

1. Before restructuring, the enterprise must fulfill its liability to pay tax on exported or imported goods.

2. If an enterprise whose tax liability is unfulfilled is restructured, it is required to have a document identifying the tax liability of each enterprise established after the restructuring and every enterprise established after the restructuring must make a written commitment with the customs authority to fulfill such tax liability left by the restructured enterprise.

3. The tax authority must not issue TINs to enterprises established after restructuring if there is no certification by customs authorities that such enterprises have fulfilled their liability as prescribed in Clause 2 of this Article.

Article 140. Certification of fulfillment of tax liability

1. Any taxpayer or competent authority that needs to have tax liability certified (including amounts of tax, late payment interest, fines, other paid amounts, and/or the amount paid to state budget) shall make a written request for certification of fulfillment of tax liability to the General Department of Customs, which specifies:

- a) The taxpayer's name and TINs;
- b) The contents that need certifying;
- c) Documents proving the said contents (photocopies).

If the taxpayer wishes to have his/her fulfillment of tax liability certified, the written request must bear the signature and seal of the taxpayer's representative;

2. The customs authority shall inspect and certify the fulfillment of tax liability when receiving the request.

If certification is rejected, explanation must be provided in writing.

If information about fulfillment of tax liability must be verified before certification, the customs authority shall send a notification to the taxpayer of the reasons.

The result must be given to the taxpayer within 05 working days from the day on which sufficient documents are received.

3. Within 15 days from the day on which the General Department of Customs issues a certification of tax debt, the Customs Department shall inspect the enterprise's tax debt

according to accounting records of export tax and import tax. If it is determined that the enterprise still owes outstanding tax related to import and export activities, including the amount on the tax accounting system and the amount that is not shown on the system, the General Department of Customs must be promptly notified in order to confirm the enterprise's tax status. If Customs Department does not send a notification to the General Department of Customs by the said deadline, the Customs Department shall be responsible for the enterprise's debts.

4. In case an enterprise requests certification of fulfillment of its tax liability serving the process of dissolution, shutdown, TIN closing, the enterprise must fully pay tax and other amounts payable to state budget related to export and import activities before receiving goods from the day on which the General Department of Customs issues the certification of tax debt if the enterprise registers to follow customs procedures at a Customs Department.

5. The certification of tax debt issued by the General Department of Customs is effective for 30 days from the day on which it is signed. The enterprise must make a commitment that there is no outstanding tax or amounts payable to state budget related to export and import activities up to the day on which the document is signed, and take legal responsibility for such commitment.

Chapter VIII

POST-CLEARANCE INSPECTION

Article 141. Collection of information and verification serving post-clearance inspection

1. Collection of information

The customs authority is entitled to request declarants, state authorities, and entities related to exported or imported goods to provide information serving post-clearance inspection as prescribed in Article 95 and Article 96 of the Law on Customs, Article 107 and Article 108 of Decree No. 08/2015/NĐ-CP.

2. Verification serving post-clearance inspection

a) Where necessary, the Director of the General Department of Customs, the Director of Post-clearance Inspection Department, the Director of Customs Department, or the Director of Sub-department of Post-clearance Inspection, the Director of Sub-department of Customs may carry out verification at state authorities and relevant entities to clarify the suspected, irrational issues, or signs of violations of law found in the customs dossiers;

b) During the inspection at the declarant's premises, if verification is urgent, the chief of the inspectorate may carry out verification as prescribed in Point a of this Clause;

c) A written request for verification may be sent or a person may be appointed to do the verification under a letter of introduction. The verification result shall be recorded in writing.

Article 142. Post-clearance inspection at customs authorities

1. Subjects and scope of inspection

The subjects and scope of post-clearance inspection at the customs authority are specified Article 79 of the Law on Customs.

2. Entitlements to decide inspection

a) The Director of the Sub-department of Customs is entitled to issue a decision on inspection of customs dossiers that have been granted customs clearance within 60 days from the customs clearance date as prescribed in Clause 1 Article 78 of the Law on Customs (except for the shipments that underwent physical inspection before customs clearance) and the cases mentioned in Point a.2 and Point b.2 Clause 2 Article 25 of this Circular;

b) The Director of the Customs Department is entitled to issue a decision on inspection of customs dossiers prescribed in Clause 1 and Clause 2 Article 78 of the Law on Customs (except for the dossiers that have been inspected as prescribed in Point a of this Clause),s including the cases mentioned in Point g.2 Clause 3 Article 25 of this Circular on the basis of risk management;

c) The decision on post-clearance inspection at the customs authority shall be made using form No. 01/2015-KTSTQ in Appendix VIII enclosed herewith.

3. Inspection contents

a) The declarant must present the sale contract or an equivalent document, commercial invoice, transport documents, insurance documents, C/Os, payment documents, documents, technical documents of exported or imported goods related to the inspected dossier, and provide explanation for relevant contents; appoint an authorized representative to work with the customs authority under the inspection decision;

b) The inspection shall be recorded in writing. The inspection record shall be kept together with the supporting documents provided by the declarant.

4. Handling inspection result

a) If the information, documents, explanation provided by the declarant prove that the declaration is legitimate, the customs authority shall accept the declaration;

b) In any of the following cases, the customs authority shall not accept the declarant's declaration, issue a tax decision and impose penalties for administrative violations (if any):

b.1) The declarant does not provide sufficient information or documents as prescribed in Clause 3 of this Article or fails to explain or prove that the declaration is true;

b.2) The declaration is untrue, insufficient, or inaccurate in terms of information on the customs declaration, the declaration of value, the factors related to determination of tax payable, policies

on management of exported and imported goods, the factors that affect the value determination methods, adjustments, special relationships, conditions and procedures for applying value determination methods;

b.3) The documents provided by the declarant for the customs authority are not legitimate;

b.4) There is consistency among the documents in the customs dossier or between documents in the customs dossier and documents provided for the customs authority.

c) If the declarant does not go to the customs authority or does not provide documents as prescribed in Clause 3 of this Article at the request of the customs authority, the customs authority shall take actions according to the result of inspection of existing documents and data, update information on the database system of the General Department of Customs in order to take inspect the next shipments and customs dossiers of the declarant.

If there is no sufficient basis for concluding the accuracy and legitimacy of customs dossier, a competent customs authority shall be requested to carry out a post-clearance inspection at the declarant's premises as prescribed in Article 143 of this Circular on the basis of risk management principles within 45 days from the inspection date written on the decision on inspection at the customs authority.

If the basis for concluding is sufficient, the Director of the Sub-department of Customs, the Director of the Sub-department of Post-Clearance Inspection, the Director of the Customs Department shall issue decisions on tax imposition and administrative penalties (if any).

5. Notification of inspection result:

Based on documents, data, information, explanation provided by the declarant and the inspection result, within 05 working days from the end of the inspection according to the decision on inspection, the person who signs the decision on inspection shall issue a notification of inspection result (form No. 06/2015-KTSTQ in Appendix VIII enclosed herewith) and send it to the declarant.

The decision on inspection, and notification of inspection result shall be updated on the information system serving post-clearance inspection within 01 day from the day on which they are signed.

Article 143. Post-clearance inspection at the declarant's premises

1. The cases of inspection are specified in Article 78 of the Law on Customs.

2. The Director of the General Department of Customs shall issue annual post-clearance inspection plans.

3. Inspection procedures

a) In the cases of inspection prescribed in Clause 2 and Clause 3 Article 78 of the Law on Customs, an inspection decision (form No. 01/2015-KTSTQ in Appendix VIII enclosed herewith) shall be sent directly, by registered mail, or fax to the declarant within 03 working days from the day on which it is signed and at least 05 working days before the inspection date;

In case of inspection because of suspected violations prescribed in Clause 1 Article 78 of the Law on Customs, the inspection shall be carried out as soon as the decision on inspection is given to declarant during working hours) instead of prior notice;

In case of collection of info serving post-clearance inspection, the customs authority shall request the declarant to provide information using form No. 02/2015-KTSTQ in Appendix VIII enclosed herewith.

In case the decision on post-clearance inspection is adjusted, form No. 03/2015-KTSTQ in Appendix VIII enclosed herewith shall be used.

In case the extension of post-clearance inspection duration, form No. 04/2015-KTSTQ in Appendix VIII enclosed herewith shall be used.

In case of cancellation of the decision on post-clearance inspection, form No. 07/2015-KTSTQ in Appendix VIII enclosed herewith shall be used.

b) The customs authority shall carry out the inspection on the date written on the decision on post-clearance inspection, except for force majeure events.

The declarant must comply with the decision on post-clearance inspection, appoint competent persons to work with the customs authority. The failure to comply with the decision on post-clearance inspection is considered a customs offense.

b.1) Announcement of the decision on post-clearance inspection:

The contents are specified in form No. 09/2015-KTSTQ in Appendix VIII enclosed herewith;

b.2) Scope of inspection, the inspectorate shall carry out the inspection within the scope written on the decision on post-clearance inspection. If the scope of inspection must be expanded, a competent authority shall be requested to make decision;

b.3) Inspection contents:

The declarant shall provide, present documents and exported or imported goods as prescribed in Point b Clause 3 Article 80 of the Law on Customs, appoint competent persons to directly work with the inspectorate according to the decision on post-clearance inspection and at the request of the chief of the inspectorate.

The inspectorate shall carry out the inspection in accordance with the decision on post-clearance inspection, the demands of each inspection (such as inspecting the customs dossier, compare the

declaration with accounting records, other documents, data related to the goods, carrying out physical inspection of goods if necessary and possible).

The inspection shall be recorded using form no. 08/2015-KTSTQ in Appendix VIII of this Circular, which is enclosed with supporting documents provided by the declarant.

4. Handling inspection result:

- a) If the information, documents, explanation provided by the declarant prove that the declaration is legitimate, the customs authority shall accept the customs dossier;
- b) In any of the following cases, the customs authority shall not accept the declarant's declaration, issue a tax decision and impose penalties for administrative violations (if any):
 - b.1) The declarant does not provide sufficient documents at the request of the customs authority or inspectorate, or fails to explain or prove that the declaration is true, or fails to explain the irrationalities in the declaration that is found by the customs authority;
 - b.2) The declaration is untrue, insufficient, or inaccurate in terms of information on the customs declaration, the declaration of value, the factors that affect the value determination methods, special relationships, conditions and procedures for applying value determination methods, the factors related to determination of tax payable, policies on management of exported and imported goods, adjustments;
 - b.3) The documents provided by the declarant for the customs authority are not legitimate;
 - b.4) There is consistency among the documents in the customs dossier, between the customs dossier submitted to the customs authority and the documents retained by the declarant, between the customs dossier and accounting records; between the customs dossier, accounting records and relevant documents.
- c) If the declarant fails to comply with the decision on post-clearance inspection, fails to provide documents or explanation at the request of the customs authority, the customs authority shall consider issuing a tax decision and imposing administrative penalties as prescribed by law; update information on the risk management system in order to take appropriate measures to inspect the customs dossiers of the next shipments of the declarant;
- d) Inspection conclusion:
 - d.1) The draft conclusion must be sent within 05 working days from the end of the inspection according the decision on post-clearance inspection. The conclusion shall be given based the contents, scope, and result of inspection written on the inspection record. The issuer of the decision on post-clearance inspection shall draft and send the conclusion to the declarant (by email, by fax, by post, or directly)

d.2) The declarant must provide explanation (whether in writing or directly) with regard to the draft contract for the person that signs the decision on post-clearance inspection within 05 working days from the deadline for sending the draft conclusion;

d.3) Within 05 working days from the deadline for providing explanation, the issuer of the decision on inspection shall:

d.3.1) Consider the declarant's explanation and/or the result of discussion with the declarant's representative to clarify the issue and sign the conclusion;

d.3.2) Sign the conclusion:

the Director of the General Department of Customs, the Director of Post-clearance Inspection Department, the Director of Customs Department, or the Director of Sub-department of Post-clearance Inspection shall sign the inspection conclusion (form No. 05/2015-KTSTQ in Appendix VIII enclosed herewith), specifying the legal basis, the inspection scope, inspection contents, inspection result, and proposed solutions (if any).

dd) If professional opinions are necessary for making the conclusion, the conclusion shall be signed within 15 days from the day on which opinions are provided by competent agencies. Professional opinions must be provided in writing within 30 days from the receipt of the request from the customs authority;

e) Updating inspection information:

The decision on inspection, and notification of inspection result shall be updated on the information system serving post-clearance inspection within 01 day from the day on which they are signed. The violations and assessments of declarants shall be updated on the System in order to take appropriate risk management measures.

Article 144. Organizing a post-clearance inspection

1. The Director of the General Department of Customs shall direct the organization of post-clearance inspections nationwide, sign decisions on post-clearance inspection, and handle inspection results in the cases prescribed in Clause 2 Article 98 of Decree No. 08/2015/NĐ-CP:

a) Inspection of preferred enterprises recognized by the Director of the General Department of Customs;

b) Inspection of enterprises executing projects of national importance;

c) The corporations, general companies that have facilities for manufacturing goods for export or multiple export, import branches in multiple provinces.

2. The Director of the Post-customs Clearance Inspection Department has responsibilities to:

- a) Provide consultancy on organization of post-clearance inspection, provide training for post-clearance inspection techniques nationwide; organize post-clearance inspection, instruct and manage inspectorates;
- b) Sign decisions on post-clearance inspection and organize implementation of such decisions, handle inspection results, sign decisions on tax imposition as prescribed in Clause 1 and Clause 2 Article 78 of the Law on Customs and in case of inspection according to a plan approved by the Director of the General Department of Customs, except for the cases prescribed in Clause 1 of this Article;
- c) Sign decisions on post-clearance inspection and organize inspection thereof as authorized; handle inspection results in accordance with Article 100 of Decree No. 08/2015/NĐ-CP, send reports to the Director of the General Department of Customs of cases of tax imposition and the cases prescribed in Clause 1 of this Article as authorized by the Director of the General Department of Customs;
- d) Impose administrative penalties for customs offenses as prescribed by regulations of law on penalties for administrative violations.

3. Directors of Customs Departments shall organize and manage post-clearance inspections within their provinces; organize post-clearance inspections or assign Directors of Sub-departments of Post-Clearance Inspection to do so; organize and manage inspectorates.

Send reports to the Director of the General Department of Customs of the cases in which post-clearance inspection is carried out at the declarant's premises outside their province.

4. The Director of Sub-department of Post-Clearance Inspection has the responsibilities to:

- a) Sign decisions on post-clearance inspection and organize inspection thereof; handle inspection results in accordance with Article 100 of Decree No. 08/2015/NĐ-CP as authorized by the Director of the Customs Department;
- b) Impose administrative penalties for customs offenses as prescribed by regulations of law on penalties for administrative violations;
- c) Provide consultancy and instructions on post-clearance inspection within the province. Update information and receive reports on post-clearance inspections carried out by Sub-departments of Customs, and send reports to the Director of the Customs Department of the Post-clearance Inspection Department in order to ensure uniformity, effectiveness, and avoid repetition;
- d) Update information, documents about post-clearance inspection, results thereof, and request such results as prescribed by the General Department of Customs.

5. The Director of Sub-department of Customs has the responsibilities to:

a) Sign decisions on post-clearance inspection and handle results thereof in the cases prescribed in Point a Clause 2 Article 142 of this Circular;

Organize post-clearance inspections as assigned by the Director of the Customs Department;

b) Impose administrative penalties for customs offenses as prescribed by regulations of law on penalties for administrative violations;

c) Update information, documents, results post-clearance inspection, and report such results as prescribed by the General Department of Customs.

Article 145. Responsibility to settle complaints about post-clearance inspection

1. The person in charge of complaint settlement must ensure objectivity and must not assign the unit that issued the decision being complained to settle the complaint.

2. Responsibilities of complaint settlement units:

a) The Director of the Sub-department of Post-Clearance Inspection, the Director of the Sub-department of Customs shall carry out the first settlement of complaints against administrative decisions issued by the Director of the Sub-department of Post-Clearance Inspection or the Director of the Sub-department of Customs.

b) The Director of the Customs Department shall:

b.1) Carry out the first settlement of the complaints against administrative decisions issued by the Director of the Customs Department;

b.2) Carry out the second settlement of the complaints against administrative decisions issued by the Director of the Sub-department of Post-Clearance Inspection or the Director of the Sub-department of Customs.

c) The Director of the Post-clearance Inspection Department shall carry out the first settlement of complaints against administrative decisions issued by the Director of the Post-clearance Inspection Department.

d) The Director of the General Department of Customs:

d.1) Carry out the first settlement of the complaints against administrative decisions issued by the Director of the General Department of Customs; The inspection unit of the General Department of Customs shall advise the Director of the General Department of Customs settling complaints;

d.2) Carry out the second settlement of the complaints against administrative decisions issued by the Director of the Customs Department; The Director of the Post-customs Clearance Inspection Department shall advise the Director of the General Department of Customs settling complaints;

d.3) Carry out the second settlement of complaints against administrative decisions issued by the Director of the Post-clearance Inspection Department. The inspection unit of the General Department of Customs shall advise the Director of the General Department of Customs settling complaints.

e) The Minister of Finance shall carry out the second settlement of complaints against administrative decisions issued by the Director of the General Department of Customs. The inspectorate of the Ministry of Finance shall advise the Minister of Finance settling complaints.

Chapter IX

IMPLEMENTATION

Article 146. Set forms provided in the Law on Customs and Decree No. 08/2015/NĐ-CP

The following forms are provided by the Ministry of Finance in Appendix IX in accordance with the Law on Customs and Decree No. 08/2015/NĐ-CP:

1. Form No. 01: List of goods transited without passing the mainland territory.
2. Form No. 02: List of temporarily imported/export containers/flex tanks.
3. Form No. 03: Application for establishment of a bonded warehouse, container freight station, ICD, ALS, customs place outside the checkpoint area, or concentrated inspection site.
4. Form no. 04: Quarterly report on use of materials delivered to and dispatched from the tax-suspension warehouse.
5. Form no. 05: Annual report on use of materials delivered to and dispatched from the tax-suspension warehouse.

Article 147. Transition

1. With regard to processing contracts that have been notified to the customs authority and customs declarations of goods imported for manufacturing of products for export registered before the effective date of this Circular but statements are yet to be made, the statements shall be made in accordance with this Circular.

With regard to EPEs required to submit quarterly reports, the report of the first quarter of 2015 may be skipped. Statements shall be made and submitted in accordance with this Circular.

2. With regard to goods sent to bonded warehouses and CFS before the effective dates of the Law on Customs No. 54/2014/QH13, Decree No. 08/2015/NĐ-CP, and this Circular, the time limit, procedures for dispatching goods from bonded warehouses and CFS shall comply with the said documents.

Article 148. Responsibility for implementation

1. The Director of the General Department of Customs shall instruct customs authorities to uniformly implement this Circular in order to facilitate export, import, and customs control.
2. Customs authorities shall carry out customs procedures; customs supervision and inspection, export tax, import tax, and tax administration of exported or imported goods in accordance with this Circular. Customs authorities, declarants, and taxpayers must report every difficulty that arise during the implementation of this Circular to the Ministry of Finance (General Department of Customs) for instructions on a case-by-case basis.

Article 149. Effect

1. This Circular takes effect on April 01, 2015.

Point dd.2 Clause 1, Point dd Clause 4 Article 42, Clause 4, Clause 7, and Clause 8 Article 133, and Article 135 of this Circular shall come into force on the effective date of the Law No. 71/2014/QH13 on amendments to tax laws (January 01, 2015).

Article 133 of this Circular shall apply to determination of late payment interest on customs declarations registered before January 01, 2015 tax on which is paid from January 01, 2015.

2. The following documents are annulled:

- a) Circular No. 94/2014/TT-BTC dated July 17, 2014 on customs procedures, customs supervision and inspection of some types of goods temporarily imported for re-export, goods transited, and goods sent to bonded warehouses; settlement of refused shipments;
- b) Circular No. 22/2014/TT-BTC dated February 14, 2014 of the Ministry of Finance on electronic customs procedures applied to commercial exports and imports;
- c) Circular No. 128/2013/TT-BTC dated September 10, 2013 of the Ministry of Finance on customs procedures; customs supervision and inspection; export tax, import tax, and tax administration of exported or imported goods;
- d) Circular No. 196/2012/TT-BTC dated November 15, 2012 of the Ministry of Finance on electronic customs procedures on commercial exports and imports;
- dd) Circular No. 186/2012/TT-BTC dated November 02, 2012 providing templates of declarations of transited goods and appendices thereof; printing, management, use of declarations of transited goods and appendices;
- e) Circular No. 183/2012/TT-BTC dated October 25, 2012 of the Ministry of Finance providing templates of declarations of goods delivered to and dispatched from bonded warehouses and appendices thereof;

g) Circular No. 15/2012/TT-BTC dated February 08, 2012 of the Ministry of Finance providing templates of declarations of exported or imported goods;

h) Circular No. 190/2011/TT-BTC dated December 20, 2011 of the Ministry of Finance providing templates of declarations of non-trading exports and imports, appendices thereof; printing, management, use of declarations of non-trading exports and imports and appendices thereof;

i) Circular No. 45/2011/TT-BTC dated May 19, 2011 of customs procedures applied international multimodal transport of goods;

k) Circular No. 45/2007/TT-BTC dated May 07, 2007 of the Ministry of Finance providing instructions on special preferential import tax;

l) Circular No. 13/2014/TT-BTC dated January 14, 2014 of the Ministry of Finance on customs procedures applied to goods processed under contracts with foreign parties;

m) Circular No. 175/2013/TT-BTC dated November 29, 2013 of the Ministry of Finance on application of risk management to customs activities;

n) Circular No. 237/2009/TT-BTC dated December 18, 2009 of the Ministry of Finance providing guidelines for import tax and VAT on materials and machinery imported under processing contracts or for manufacturing of goods for exports that are damaged or loss because of force majeure events such as natural disasters, conflagration, accidents;

And guidelines for customs procedures, customs supervision and inspection, export tax, import tax, and tax administration of exported or imported goods provided by the Ministry of Finance that contravene this Circular.

3. Where the documents cited in this Circular are revised or replaced, the newest one shall apply./.

**PP MINISTER
DEPUTY MINISTER**

Do Hoang Anh Tuan

APPENDIX I

REGISTRATION FOR CONNECTION WITH THE SYSTEM (FOR DECLARANT)
(Enclosed with Circular No. 38/2015/TT-BTC dated March 25, 2015 of the Ministry of Finance)

I. Procedures for registration for connection with the System

1. Any entity that wishes to connect to the System (hereinafter referred to as “user”) please visit <https://www.customs.gov.vn> and enter information mentioned in Appendix 1A (for organizations having TINs) or Appendix 1B (for individuals having TINs) or Appendix 1C (for users without TINs).

2. Within 01 working day, the customs authority shall check information provided by users and reply via the customs information portal:

a) If registered information is not sufficient or not conformable, the customs authority shall send the user a request for adjustment or addition of information;

b) If registered information is sufficient and conformable, the customs authority shall send the user information about the user’s account and connection to the System;

c) If the registered information is rejected, the customs authority shall send an explanation.

3. After receiving a response from the customs authority, the user shall:

a) Adjust or provide additional information if requested by the customs authority;

b) Log in on the customs information portal to check the successful registration and change the password if registered information is accepted by the customs authority.

II. Procedures for adjustment and/or addition of registered information

1. The user logs in, change/add information, and send it to the customs authority.

2. The customs authority checks adjusted/additional information and send a response as prescribed in Point 2 Section I of this Appendix.

III. Procedures for cancellation of registered information

1. To cancelled information registered on the System, the use has to log in on the customs information portal, select “request for cancellation of registered information”, and send such request to the customs authority.

2. The customs authority shall check the request and send a response to the user via the customs information portal.

Appendix 1A

INFORMATION OF ORGANIZATIONS HAVING TINs

No.	Information	Compulsory	List	Repeated
I	General information			
1	Representative’s name	x		
2	Address	x		
3	MST	x		

4	Business lines	x	x	
5	User code	x		
II	Declarant's information			
1	User code	x	x	
1	Full name	x		x
2	ID/passport number	x		x
3	Customs declaration certification number			x
4	Email	x		x
5	Business lines	x	x	x
III	Digital signature			
1	Serial number	x		
2	Digital certificate service provider	x	x	
3	Digital certificate recipient	x		
4	Effective date	x		
5	Expiration date	x		
6	Public key	x		

Appendix 1B

INFORMATION OF INDIVIDUALS HAVING TINS

No.	Information	Compulsory	List	Repeated
I	Declarant's information			
1	Declarant's full name	x		
2	Declarant's address	x		
3	Declarant's TIN	x		
4	ID/passport number	x		
5	Phone number	x		
6	Declarant's email	x		
7	Note			
II	Digital signature			
1	Serial number	x		
2	Digital certificate service provider	x		x

3	Digital certificate recipient	x		
4	Effective date	x		
5	Expiration date	x		
6	Public key	x		

Appendix 1C

INFORMATION OF USERS WITHOUT TINS

No.	Information	Compulsory	List	Repeated
I	Declarant's information			
1	Declarant's full name	x		
2	Declarant's address	x		
3	User code (issued by customs authority)	x		
4	ID/passport number	x		
5	Phone number	x		
6	Declarant's email	x		
7	Note			
II	Digital signature			
1	Serial number	x		
2	Digital certificate service provider	x		x
3	Digital certificate recipient	x		
4	Effective date	x		
5	Expiration date	x		
6	Public key	x		

(Users without TINS will use user code issued by customs authority)

APPENDIX IV

INSTRUCTIONS TO COMPLETE DECLARATION OF IMPORTED GOODS

Section	Instructions
Upper left corner	Insert name of the Sub-department of Customs where the customs declaration is registered and the Sub-department of Customs at the import checkpoint.

Middle part	<p>* Declaration number, registration time: ordinal number of the declaration sorted by import purpose at each Sub-department of Customs in the following order: Number/NK/Purpose/registering unit and quantity of appendices</p> <p>* Quantity of appendices (if the shipment consists of more than one article)</p>
Upper right corner	Where the customs official who receives the declaration of imported goods appends his signatures and seal.
A –Completed by declarant	
Box 1	Exporter: Insert full name, address, phone number, fax number, and code (if any) of the overseas seller who sells goods to the Vietnamese trader (according to the sale contract)
Box 2	Importer: Insert full name, address, phone number, fax number, and TIN of the importer; passport/ID number (if the importer is an individual).
Box 3	Name of the trustee/authorized person: Insert full name, address, phone number, fax number, and TIN of the trader who entrusts the importer, or full name, address, phone number, fax number, and TIN or the authorized declarant; passport/ID number (if the authorized declarant is an individual).
Box 4	Customs broker: Insert full name, address, phone number, fax number, and TIN of the customs broker; number and date of the customs brokerage contract. Insert name of bonded warehouse if goods are sent to a bonded warehouse.
Box 5	Insert purpose of imported goods
Box 6	Insert number, date of the commercial invoice (if any).
Box 7	Insert number, date of issue, date of expiration of the license (if any).
Box 8	Insert date of conclusion, date of expiration (if any) of the contract or its appendices (if any).
Box 9	Bill of lading: Insert number, date of the bill of lading or an equivalent transport document issued by the carrier (if any).
Box 10	Port of loading: Insert name of the port, location where goods are loaded onto the means of transport by which they are transported to Vietnam (according to the commercial invoice or bill of lading).
Box 11	<p>Port of discharge: Insert name of the port/checkpoint where goods are unloaded from the means of transport (according to the bill of lading or transport document). If the checkpoint/port of discharge is different from the location where goods are delivered to the declarant, the port/checkpoint of delivery will be written.</p> <p>Example: In case imported goods are discharged at Hai Phong port and delivered to the consignee at Gia Thuy ICD, the declarant will write “Hai Phong/Gia Thuy”</p>

Box 12	Means of transport: Insert name of the ship, flight number, train number, code and arrival date of the vehicle that carries goods imported into Vietnam by sea, by air, by rail, or by road respectively.
Box 13	Exporting country: Insert name of the country/territory from which goods are transported to Vietnam (the last place where goods are exported to Vietnam). Use code names of countries ISO 3166 (do not write names of countries/territories through which goods are transited).
Box 14	Specify the delivery terms agreed by the buyer and the seller in the commercial contract.
Box 15	Specify method of payment (if any) agreed in the commercial contract e.g. L/C, DA, DP, TRR, or barter, etc.
Box 16	Insert code of payment currency agreed in the commercial contract. Currency codes are specified by ISO 4217 e.g. USD stands for US dollars
Box 17	Insert exchange rates between payment currency and VND to calculate tax (in accordance with regulations applicable at the time of registration of customs declaration) in VND (if any)
Box 18	<p>Goods description: Specify goods name, specifications according to commercial contract or documents relevant to the shipment.</p> <p>* If the shipment consists of more than one article:</p> <ul style="list-style-type: none"> - On the customs declaration: “See appendix”. - On the appendix: Specify name, specification, and quality of each article. <p>If a code is applied to a shipment which consists of multiple parts or articles (e.g. integrated equipment), the declarant shall write the name of the shipment on the declaration and make a manifest (not declaring on the appendix).</p>
Box 19	<p>Codes of goods: Insert codes of goods according to the list of exported or imported goods promulgated by the Minister of Finance.</p> <p>* If the shipment consists of two articles or more:</p> <ul style="list-style-type: none"> - On the customs declaration: left blank. - On the appendix: write codes of every article.
Box 20	<p>Origins: Insert name of the country/territory in which goods are manufactured (according to the Certificate of Origin or relevant documents). Codes of countries are prescribed in ISO 3166.</p> <p>* Write similarly to box 19 if there is more than one article.</p>

Box 21	Incentive: Insert name of the C/O form issued to the shipment under a Free Trade Agreement to which Vietnam is a signatory.
Box 22	<p>Goods quantity: Insert quantity or weight of each article in the shipment that suits the unit in box 23.</p> <p>* Write similarly to box 19 if there is more than one article.</p>
Box 23	<p>Unit: Insert unit of measurement of each article (e.g. m, kg, etc.) according to the list of exported or imported goods promulgated by the Minister of Finance or depending on the transaction.</p> <p>* Write similarly to box 19 if there is more than one article.</p>
Box 24	<p>Unit price in transaction currency: Insert price for a unit of goods (according to box 23) in the currency written in box 16 according to the commercial contract, invoice, L/C, or relevant documents.</p> <p>If the commercial contract allows payment deferral and the selling price/buying price on the contract is inclusive of interest, the unit price equals (=) selling price/buying price minus (-) interest.</p> <p>* Write similarly to box 20 if there is more than one article.</p>
Box 25	<p>Write value in transaction currency of each article, which equals (=) quantity (box 22) multiplied by (x) unit price in transaction currency (box 24).</p> <p>* If the shipment consists of more than one article:</p> <ul style="list-style-type: none"> - On the customs declaration: Write total value in transaction currency of articles declared on the appendix. - On the appendix: Write value in transaction currency of each article.
Box 26	<p>Import tax:</p> <ul style="list-style-type: none"> a. Dutiable value: Insert dutiable value of each article in VND. b. Tax rate (%): Insert the rates with corresponding codes in box 19 according to the Tariff schedule applicable at the time of registration of the declaration. c. Insert amount of import tax payable on each article. <p>* If the shipment consists of more than one article:</p> <ul style="list-style-type: none"> - Insert total amount of import tax payable in box “tax” - Insert dutiable value, tax rate, and tax payable on each article on the appendix.

Box 27	<p>Special excise tax:</p> <p>a. Insert value subject to special excise tax, which is the sum of value subject to import tax and import tax on each article.</p> <p>b. Tax rate (%): Insert the rate of special excise tax with corresponding codes according to box 19 and special excise tax schedule.</p> <p>c. Insert amount of special excise tax payable on each article.</p> <p>* Write similarly to box 26 if the shipment consists of more than one article.</p>
Box 28	<p>Environmental protection tax:</p> <p>a. Insert quantity of goods subject to environmental protection tax according to the environmental protection tax schedule.</p> <p>b. Insert the rate of environmental protection tax on imported tax according to environmental protection tax schedule.</p> <p>c. Tax amount: insert amount of environmental protection tax payable on each article.</p> <p>* Write similarly to box 26 if the shipment consists of more than one article.</p>
Box 29	<p>Value-added tax VAT:</p> <p>a. Insert value subject to VAT, which equals (=) value subject to import tax plus (+) import tax (if any) plus (+) special excise tax (if any) plus (+) environmental protection tax (if any). Value subject to import tax is determined according to regulations on dutiable prices.</p> <p>b. Tax rate (%): Insert the rate of VAT with corresponding codes according to box 19 and VAT schedule.</p> <p>c. Insert amount of VAT payable on each article.</p> <p>* Write similarly to box 26 if the shipment consists of more than one article.</p>
Box 30	<p>Total amount of tax (box 26 + 27 + 28 + 29): insert total amount of import tax special excise tax, environmental protection tax, and VAT, in numbers and in words.</p>
Box 31	<p>Insert goods quantity, container number if imported goods are transported in containers, including:</p> <p>- Number of each container;</p>

	<ul style="list-style-type: none"> - Quantity of packages in each container; - Insert weight of goods in each container and total weight of the shipment; <p>* If there are 4 containers or more, specific information will be written on the Appendix of the customs declaration instead of the customs declaration.</p>
Box 32	Enumerate enclosures of the declaration of imported goods
Box 33	Insert date of declaration, signature, full name, position, and append a seal on the declaration
B. Completed by customs authority	
Box 34	The head of the Sub-department of Customs where the customs declaration is registered writes the result of classification.
Box 35	Notes: Customs officials at various stages make notes that cannot be written in other sections such as record number, penalty decision number, etc.
Box 36	Certification by customs official who supervise imported goods.
Box 37	Summary of decision to release goods, put goods into storage, or transport goods from a checkpoint to another customs place outside the checkpoint area.
Box 38	Certification of customs clearance on the system or declaration printed by the trader.
C. Goods in the right column are not required to be enumerate in the boxes in the left column	
Box 6, 8, 13, 14, 15	<ol style="list-style-type: none"> 1. Personal belongings 2. Checked luggage 3. Means of transport of goods temporarily imported for re-export 4. Goods temporarily imported for re-export, temporarily exported for re-import serving certain tasks for a certain period of time. 5. Goods temporarily imported for re-export, temporarily exported for re-import for repair. 6. Goods gifted by a foreign entity to a Vietnamese entity 7. Goods of diplomatic missions, international organizations in Vietnam, and employees thereof. 8. Free-of-charge sample goods
Box 9, 10, 11	1. Luggage beyond duty-free allowance prescribed in Article 61 of Decree No.

	08/2015/NĐ-CP. 2. Goods temporarily imported for re-export, temporarily exported for re-import serving certain tasks for a certain period of time prescribed in Article 55 of Decree No. 08/2015/NĐ-CP carried upon an individual's entry or exit. 3. Other goods carried upon an individual's entry or exit.
Box 15, 16, 17, 21, 26, 27, 28, 29, 30	Goods sent to bonded warehouse

INSTRUCTIONS TO COMPLETE DECLARATION OF EXPORTED GOODS

Section	Instructions
Upper left corner	Insert name of the Sub-department of Customs where the customs declaration is registered and the Sub-department of Customs at the export checkpoint.
Middle part	* Declaration number, registration time: ordinal number of the declaration sorted by export purpose at each Sub-department of Customs in the following order: Number/XK/Purpose/registering unit and quantity of appendices * Quantity of appendices (if the shipment consists of 4 articles or more)
Upper right corner	Where the customs official who receives the declaration of exported goods appends his signatures and seal.
A –Completed by declarant	
Box 1	Exporter: Insert full name, address, phone number, fax number, and code (if any) of the Vietnamese trader who sells goods to the overseas buyer (according to the sale contract); ID/passport number (if the exporter is an individual).
Box 2	Importer: Insert full name, address, phone number, fax number, and code (if any) of the importer.
Box 3	Name of the trustee/authorized person: Insert full name, address, phone number, fax number, and TIN of the trader who entrusts the exporter, or full name, address, phone number, fax number, and TIN or the authorized declarant; passport/ID number (if the authorized declarant is an individual).
Box 4	Customs broker: Insert full name, address, phone number, fax number, and TIN of the customs broker; number and date of the customs brokerage contract.

Box 5	Insert purpose of exported goods.
Box 6	Insert numbers, dates of issue, dates of expiration of licenses for goods export (if any).
Box 7	Insert date of conclusion, date of expiration (if any) of the contract or its appendices (if any).
Box 8	Insert number, date of the commercial invoice (if any).
Box 9	Checkpoint of export: Insert name of the port, location (agreed in the commercial contract) where goods are loaded onto the means of transport for export.
Box 10	Importing country: Insert name of the country/territory of destination at the time of export, except for those through which goods are transited. Codes of countries are prescribed in ISO 3166.
Box 11	Specify the delivery terms agreed by the buyer and the seller in the commercial contract.
Box 12	Specify method of payment (if any) agreed in the commercial contract e.g. L/C, DA, DP, TRR, or barter, etc.
Box 13	Insert code of payment currency agreed in the commercial contract. Currency codes are specified by ISO 4217 e.g. USD stands for US dollars
Box 14	Insert exchange rates between payment currency and VND to calculate tax (in accordance with regulations applicable at the time of registration of customs declaration) in VND (if any)
Box 15	<p>Goods description: Specify goods name, specifications according to commercial contract or documents relevant to the shipment.</p> <p>* If the shipment consists of 4 articles or more:</p> <ul style="list-style-type: none"> - On the customs declaration: “See appendix”. - On the appendix: Specify name, specification, and quality of each article. <p>* If a code is applied to a shipment which consists of multiple parts or articles (e.g. integrated equipment), the declarant shall write the name of the shipment on the declaration and make a manifest (not declaring on the appendix).</p>
Box 16	<p>Insert codes of goods according to the List of exported or imported goods of Vietnam promulgated by the Minister of Finance.</p> <p>* If the shipment consists of 4 articles or more:</p> <ul style="list-style-type: none"> - On the customs declaration: left blank.

	- On the appendix: write codes of every article.
Box 17	<p>Origins: Insert name of the country/territory in which goods are manufactured (according to the Certificate of Origin or relevant documents). Codes of countries are prescribed in ISO.</p> <p>* Write similarly to box 16 if there 4 articles or more.</p>
Box 18	<p>Goods quantity: Insert quantity or weight of each article in the shipment that suits the unit in box 19.</p> <p>* Write similarly to box 16 if there 4 articles or more.</p>
Box 19	<p>Unit: Insert unit of measurement of each article (e.g. m, kg, etc.) according to the list of exported or imported goods promulgated by the Minister of Finance or depending on the transaction.</p> <p>* Write similarly to box 16 if there 4 articles or more.</p>
Box 20	<p>Unit price in transaction currency: Insert price for a unit of goods in the currency written in box 13 according to the commercial contract, invoice, L/C, or relevant documents.</p> <p>* Write similarly to box 16 if there 4 articles or more.</p>
Box 21	<p>Write value in transaction currency of each article, which equals (=) quantity (box 18) multiplied by (x) unit price (box 20).</p> <p>* If the shipment consists of 4 articles or more:</p> <p>- On the customs declaration: Write total value in transaction currency of articles declared on the appendix.</p> <p>- On the appendix: Write value in transaction currency of each article.</p>
Box 22	<p>Export tax:</p> <p>a. Dutiable value: Insert dutiable value of each article in VND.</p> <p>b. Tax rate (%): Insert tax rate corresponding to the code in box 16 according to the Export tariff schedule.</p> <p>c. Insert amount of export tax payable on each article.</p> <p>* If the shipment consists of 4 articles or more:</p> <p>- Insert total amount of export tax payable in box "Total"</p> <p>- Insert dutiable value, tax rate, and tax payable on each article.</p>

Box 23	<p>Other revenues:</p> <ul style="list-style-type: none"> - Value of other revenues. - Ratio (%) of other revenues - Amount of other revenues <p>* Write similarly to box 22 if there 4 articles or more.</p>
Box 24	Total amount of tax and other revenues (box 22 + 23): insert total amount of export tax and other revenues, in numbers and in words.
Box 25	<p>Insert goods quantity, container number if exported goods are transported in containers, including:</p> <ul style="list-style-type: none"> - Number of each container; - Quantity of packages in each container; - Weight of goods in each container and total weight of the shipment; - Packing location (where exported goods are put into containers); <p>* If there are 4 containers or more, specific information will be written on the Appendix of the customs declaration instead of the customs declaration.</p>
Box 26	Enumerate enclosures of the declaration of exported goods
Box 27	Insert date of declaration, signature, full name, position, and append a seal on the declaration
B. Completed by customs authority	
Box 28	The head of the Sub-department of Customs where the customs declaration is registered writes the result of classification.
Box 29	Notes: Customs officials at various stages make notes that cannot be written in other sections such as record number, penalty decision number, etc.
Box 30	Certification of customs clearance on the system or declaration printed by the trader.
Box 31	Certification by customs official who supervise exported goods.
C. Goods in the right column are not required to be enumerate in the boxes in the left column	
Box: 7, 8, 9, 10, 11, 12	1. Personal belongings

	2. Checked luggage
	3. Means of transport of goods temporarily imported for re-export
	4. Goods temporarily imported for re-export, temporarily exported for re-import serving certain tasks for a certain period of time.
	5. Goods temporarily imported for re-export, temporarily exported for re-import for repair.
	6. Goods gifted by a Vietnamese entity to an overseas entity.

INSTRUCTIONS TO COMPLETE APPENDIX OF DECLARATION OF IMPORTED GOODS

Section	Instructions
Upper left corner	Insert name of the Sub-department of Customs where the customs declaration is registered and the Sub-department of Customs at the import checkpoint.
Middle part	Appendix number (written by the declarant)
Upper right corner	<p>* Declaration number: daily ordinal number of the declaration sorted by import purpose at each Sub-department of Customs in the following order: Number/NK/Purpose/registering unit and quantity of appendices (written by customs official)</p> <p>* Purpose of imported goods is the same as that on the import declaration.</p>
Box 18	<p>Goods description: Specify goods name, specifications according to commercial contract or documents relevant to the shipment.</p> <p>Insert notification number if declarations are sorted according to the analysis and classification results.</p>
Box 19	Insert codes of goods according to the List of exported or imported goods promulgated by the Minister of Finance.
Box 20	Origins: Insert name of the country/territory in which goods are manufactured (according to the Certificate of Origin or relevant documents).
Box 21	<p>Incentive: Insert name of the C/O form or self-certification of origin issued to the shipment under the Free Trade Agreements to which Vietnam is a signatory.</p> <p>In case of self-certification of origin: Insert "TCN" + Abbreviated name of the Agreement (e.g. TCNATIGA for certification under ASEAN Trade in Goods Agreement).</p>

Box 22	Goods quantity: Insert quantity or weight of each article in the shipment that suits the unit in box 23.
Box 23	Unit: Insert unit of measurement of each article (e.g. m, kg, etc.) according to the list of exported or imported goods promulgated by the Minister of Finance or depending on the transaction.
Box 24	Unit price in transaction currency: Insert price for a unit of goods (according to box 23) in the currency written in box 16 according to the commercial contract, invoice, L/C, or relevant documents.
Box 25	Write value in transaction currency of each article, which equals (=) quantity (box 22) multiplied by (x) "unit price (box 24).
Box 26	<p>Import tax:</p> <p>a. Dutiable value: Insert dutiable value of each article in VND.</p> <p>b. Tax rate (%): Insert the rates with corresponding codes in box 19 according to the Tariff schedule applicable at the time of registration of the declaration.</p> <p>c. Insert amount of import tax payable on each article.</p>
Box 27	<p>Special excise tax:</p> <p>a. Insert value subject to special excise tax, which is the sum of value subject to import tax and import tax on each article.</p> <p>b. Tax rate (%): Insert the rate of special excise tax with corresponding codes according to box 19 and special excise tax schedule.</p> <p>c. Tax amount: insert amount of special excise tax payable on each article.</p>
Box 28	<p>Environmental protection tax:</p> <p>a. Insert quantity of goods subject to environmental protection tax according to the environmental protection tax schedule.</p> <p>b. Insert the rate of environmental protection tax on imported tax according to environmental protection tax schedule.</p> <p>c. Tax amount: insert amount of environmental protection tax payable on each article.</p>
Box 29	<p>Value-added tax (VAT):</p> <p>a. Insert value subject to VAT, which equals (=) value of imported goods at the checkpoint (if any) plus (+) special excise tax (if any) plus (+) environmental protection tax (if any). Value subject to import tax is determined according to</p>

	<p>regulations on dutiable prices.</p> <p>b. Tax rate (%): Insert the rate of VAT with corresponding codes according to box 19 and VAT schedule.</p> <p>c. Tax amount: insert amount of VAT payable on each article.</p>
Box 31	<p>Insert goods quantity, container number if imported goods are transported in containers, including:</p> <ul style="list-style-type: none"> - Number of each container; - Quantity of packages in each container; - Insert weight of goods in each container and total weight of the shipment.
Box 33	<p>Insert date of declaration, signature, full name, position, and append a seal on the declaration</p>

INSTRUCTIONS TO COMPLETE APPENDIX OF DECLARATION OF EXPORTED GOODS

Section	Instructions
Upper left corner	Insert name of the Sub-department of Customs where the customs declaration is registered and the Sub-department of Customs at the export checkpoint.
Middle part	Appendix number (written by the declarant)
Upper right corner	<p>Declaration number: daily ordinal number of the declaration sorted by export purpose at each Sub-department of Customs in the following order: Number/XK/Purpose/registering unit (written by customs official)</p> <p>Purpose of exported goods is the same as that on the export declaration.</p>
Box 15	Goods description: Specify goods name, specifications according to commercial contract or documents relevant to the shipment.
Box 16	Insert codes of goods according to the List of exported or imported goods promulgated by the Minister of Finance.
Box 17	Origins: Insert name of the country/territory in which goods are manufactured (according to the Certificate of Origin or relevant documents). Codes of countries are prescribed in ISO 3166.
Box 18	Goods quantity: Insert quantity or weight of each article in the shipment that suits the unit in box 19.
Box 19	Unit: Insert unit of measurement of each article (e.g. m, kg, etc.) according to

	the list of exported or imported goods promulgated by the Minister of Finance or depending on the transaction.
Box 20	Unit price in transaction currency: Insert price for a unit of goods in the currency written in box 13 according to the commercial contract, invoice, L/C, or relevant documents.
Box 21	Write value in transaction currency of each article, which equals (=) quantity (box 18) multiplied by (x) unit price (box 20).
Box 22	Export tax: a. Dutiable value: Insert dutiable value of each article in VND. b. Tax rate (%): Insert export tax rate corresponding to the code in box 16 according to the Export tariff schedule. c. Insert amount of export tax payable on each article.
Box 23	Other revenues: - Value of other revenues. - Ratio (%) of other revenues - Amount of other revenues
Box 25	Insert goods quantity, container number if exported goods are transported in containers, including: - Number of each container; - Quantity of packages in each container; - Weight of goods in each container and total weight of the shipment; - Packing location (where exported goods are put into containers);
Box 27	Date of declaration, signature, full name, position, and seal of declarant.

Box 4	Signature and seal of the customs official who carry out physical inspection of goods (using scanner, scale, other devices)	Signature and seal of the customs official who carry out physical inspection of goods
Box 5	Opinion, signature, and seal of Head of Sub-department of Customs	Opinion, signature, and seal of Head of Sub-department of Customs

APPENDIX V

Form No. 03/KBS/GSQL

ADDITIONAL DECLARATION OF EXPORTED/IMPORTED GOODS

A- COMPLETED BY DECLARANT

1. Declarant:

2. TIN:

3. Addition to customs declaration No. _____ dated _____

4. Additional contents:

STT	Declared contents	Additional contents	Reasons
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

5. Enclosures

[location and date]
DECLARANT
(signature, full name, seal)

B- COMPLETED BY CUSTOMS AUTHORITY

1- Time of receipt of additional declaration (date and hour):

Recipient:

2- Result of inspection of additional contents:

Recipient's opinion

**Approval by Head of Sub-department of
Customs**

[location and date]

[location and date]

RECIPIENT

**HEAD OF SUB-DEPARTMENT OF
CUSTOMS**

(signature, full name, seal)

(signature, full name, seal)

[Specify whether additional contents are accepted or rejected; append signature, full name, and official's seal)

Notes:

- Only write the contents related to the additional contents in column "Declared contents" and "Additional contents".

- This form is used for 01 customs declaration.

Form No. 14/KT-CSSX/GSQL

Customs Department:

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Sub-department of Customs:

No. /BB-KTCSSX

MANUFACTURING FACILITY INSPECTION RECORD

Pursuant to Article ... Circular No. .../20../TT-BTC of the Minister of Finance on guidelines for customs procedures;

At [insert hour] on [insert date] at, we, including:

I. Representative of customs authority:

1. Mr./Ms.: Position: Unit.....

2. Mr./Ms.: Position: Unit.....

II. Representative of trader:

1. Mr./Ms.: Position: Unit.....

2. Mr./Ms.: Position: Unit.....

III. Representative of subcontractor (if any):

1. Mr./Ms.: Position: Unit.....

2. Mr./Ms.: Position: Unit.....

IV. Witness (if any):

1. Mr./Ms.: Date of birth: Nationality:

Address:

Profession:

ID/Passport number: Date of issue: Issuer:

We hereby certifies the result of inspection at manufacturing facility of
[Insert name and address of company]

2. Right to use land, workshop (Certificate of land use right, contract to lease land, workshop, etc.):

3. Trader's right to own/use imported machinery and equipment:

- Import declaration:

- Lease/borrowing contract

4. Practical quantity, categories of machinery and equipment:

5. Trader's operation (quantity of workers at manufacturing lines, quantity of worker on inspection date, payroll, insurance, etc.):

6. Manufacturing capacity of trader:

Ending time: _____

This record is made into _____ copies with equal value, each copy has _____ sheets. _____ copies are given to _____

The record is concurred with and signed by all participants.

7. Additional opinions (if any).

LEGAL REPRESENTATIVE OF TRADER

(signature, full name, seal)

**REPRESENTATIVE OF CUSTOMS
AUTHORITY**

(signature, full name)

Trader's name:

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

Code:

Address:

**STATEMENT OF RAW MATERIALS, SUPPLIES, FINISHED PRODUCTS DERIVED
FROM IMPORTED GOODS**

[Year]

STT	Account	Name, specifications of materials/goods	Amount (VND)				Note
			Opening stock	Purchased	Used	Ending stock	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1		Imported materials	500	200	300	400	
2		Finished products derived from imported goods	100	300	150	250	

[date]

STATEMENT MAKER

LEGAL REPRESENTATIVE OF TRADER

(signature, full name)

(signature, full name, seal)

Instructions

1. This form is used by contract manufacturers, manufacturers of goods for export, enterprises operating in free trade zones, and export processing enterprises. If an enterprise operates in multiple forms, a report for each form shall be made;

2. Manufacturers of goods for export (including enterprises in free trade zone and export processing enterprises who manufacture goods for export shall declare “imported raw materials, supplies” and “finished products” from corresponding account 152 and account 155 prescribed in Circular No 200/2014/TT-BTC dated December 22, 2014 or Decision No. 48/2006/QĐ-BTC of the Ministry of Finance;

3. Inward processors (including enterprises in free trade zones and export processing enterprises hired by foreign entities or other enterprises in free trade zones as contract manufacturers, other export processing enterprises) shall keep a log of materials and finished products similarly to account 152 and 155 in Circular No. 200/2014/TT-BTC and Decision No. 48/2006/QĐ-BTC.

4. Total value of goods used in the period (column 6) include: goods exported or returned to abroad; indirectly exported; transferred to another processing contract; raw materials, supplies that are destroyed or damaged by natural disasters, conflagration, accidents during processing/manufacturing of goods for export. If raw materials, supplies that are destroyed or damaged by natural disasters, conflagration, accidents are eligible for tax exemption, tax cancellation, or tax refund, their quantity and value must be specified in column 8.

Trader's name:

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Code:

Address:

REPORT ON USE OF MACHINERY AND EQUIPMENT UNDER EACH PROCESSING CONTRACT

ST T	Contract number	Name of machinery/equipmen t	Unit	Temporar y import quantity	Re- export quantit y	Quantity of machinery and equipment transferred to another contract		Quantity of remaining machiner y and equipmen t
						Quantit y	Number, date of processin g contract	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1								
2								
...	...							
Total:								

REPORT MAKER
(signature, full name, seal)

[date]
LEGAL REPRESENTATIVE OF TRADER
(signature, full name, seal)

Trader's name

**SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness**

No.

[location & date]

*Notification of unused materials,
supplies; leased/borrowed
machinery and equipment,
waste/rejects*

To: [Name of Sub-department of Customs]

On _____ [insert date], _____ [insert company's name, TIN, address, phone, fax]
entered into a processing contract/appendix No. _____ dated _____ with [insert name
and address of foreign company].

We have completed and finalized the contract with the foreign party under finalization record
No. _____ dated _____ (enclosed herewith)

Pursuant to the finalization record, we hereby requests _____ [insert name of Sub-
department of Customs] to carry out customs procedures for handling unused materials and
supplies, leased/borrowed machinery and equipment as follows:

+ Unused materials and supplies: _____ [specify solution according to Clause _____
Article _____ Circular No. ____/2015/TT-BTC);

+ Leased/borrowed machinery and equipment: _____ [specify solution according to
Clause _____ Article _____ Circular No. ____/2015/TT-BTC);

+ Finished products in stock: _____ [specify solution according to Clause _____ Article
_____ Circular No. ____/2015/TT-BTC);

We are committed to complete procedures for handling unused materials and supplies,
leased/borrowed machinery and equipment as prescribed by law within 30 days from the day on
which permission is granted by _____ [insert name of Sub-department of Customs].

[location and date]

**LEGAL REPRESENTATIVE OF
TRADER**

(signature, full name, seal)

Opinion of Sub-department of Customs where processing contract is finalized:

Approval is granted by head of Sub-department of Customs.

Head of Sub-department of Customs
(date, signature, seal)

Form No. 23/NLNK-PTQ/GSQL

Trader's name:

TIN:

STATEMENT OF IMPORT TAX PAYABLE

*Enclosed with export declaration No. _____ dated _____
Registered at _____ [insert name of Sub-department of Customs]*

STT	Imported materials	HS code	Rate	Dutiable value	Tax payable
1.					
2.					
3.					
Total import tax payable:					

Number of written request for selection of tax determination method No. _____
according to Clause 7 Article 13 of Circular No. 109/2014/TT-BTC dated August 15, 2014 of the
Ministry of Finance: (*)

LEGAL REPRESENTATIVE OF TRADER
(signature, full name, seal)

Notes:

- (*) Enterprises having projects of investment and issued with investment licenses or certificates of investment after January 15, 2014 are not required to declare this information;

- The Sub-department of Customs in charge of free trade zone at the checkpoint economic zones shall receive the document;

- Enterprise that buys goods manufactured within a free trade zone.

APPENDIX VI

Form No. 02A/TBNVTG/TXNK

[Insert name of Customs Department]

[Insert name of Sub-department of Customs]

No. /TB-CCHQ...

[location & date]

NOTICE

of doubtful value

Pursuant to Circular No. 38/2015/2015 dated March 25, 2015 on customs procedures, customs control and inspection, export tax, import tax, and tax administration for exported or imported goods;

_____ [Insert name of Sub-department of Customs] has examined and found declared values of the following exported/imported goods under declaration No. _____ dated _____ doubtful:

No.	Code	Name
(1)	(2)	(3)

_____ [Insert name of Sub-department of Customs] hereby requests submission of additional documentary evidence in order to exercise the right to consultancy or pay tax as declared.

Head of Sub-department of Customs
(signature and seal)

Declarant's response
*(signature and full name of authorized
representative)*

** Specify "consultancy requested" and consultancy time, or "no consultancy, customs clearance requested"*

Form No. 03/QĐĐCT/TXNK

General Department of
Customs/Customs Department
**[Customs Department/Sub-
department of Customs]**

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. /QĐ.....

[location & date]

DECISION

Tax adjustment

(applied to goods repurposed or sold domestically instead of being exported as intended)

[NAME OF CUSTOMS AUTHORITY]

PURSUANT TO the Law on Tax administration No. 78/2006/QH11 dated November 29, 2006; the Law No 21/2012/QH13 dated November 20, 2012 on the amendments to the Law on Tax administration; the Government's Decree No. 83/2013/NĐ-CP dated July 22, 2013 on guidelines for implementation of the Law on Tax administration, Law on amendments to the Law on Tax administration, and instructional Circulars;

Pursuant to the Law on Export and import tax No. 45/2005/QH11 dated June 14, 2005; the Law on Value-added tax No. 13/2008/QH12 dated June 03, 2008; the Law on Environmental protection tax No. 57/2010/QH12 dated November 15, 2010; instructional Decrees and Circulars thereof;

Pursuant to Circular No. 38/2015/2015 dated March 25, 2015 on customs procedures, customs control and inspection, export tax, import tax, and tax administration for exported or imported goods;

In consideration of request made by [insert name of taxpayer] and proposal of [insert name of advisory unit] for [insert “repurposing of goods intended for export” or domestic sale of goods intended for export”

DECIDES:

Article 1. Reduction of tax on declaration No. [insert number of old declaration] of [insert name, TIN, and address of taxpayer] on the amount of goods repurposed/sold domestically instead of being exported as intended on declaration No. [insert number of new declaration] registered at [insert name of Sub-department of Customs where the new declaration is registered] for [insert new purpose]:

No.	Tax	Amount (VND)
1	Export tax	
2	Import tax	
3	VAT	
4	
	Total:	

Article 2. This Decision is effective from the day on which it is signed. Mr./Ms. [insert name of the head of advisory unit] and Mr./Ms. [insert name of taxpayer] are responsible for implementation of this Decision/.

HEAD OF COMPETENT CUSTOMS AUTHORITY
(signature, full name, seal)

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Form No. 14/CVĐKDDMMT/TXNK**[INSERT NAME OF
ORGANIZATIONS, INDIVIDUALS]****SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom – Happiness**

No...../.....

**V/v Đăng ký danh mục hàng hoá xuất
khẩu, nhập khẩu miễn thuế nhập khẩu***[location & date]*

To: [Name of Department of Customs] (2)

Name of organizations, individuals: (1)

Tax code:.....

Address:

Tel:.....; Fax:.....

Lĩnh vực hoạt động:.....

Lý do miễn thuế: (ghi cụ thể đối tượng miễn thuế, cơ sở xác định đối
tượng miễn thuế).....Nay, (1)..... đăng ký danh mục xuất khẩu,
nhập khẩu hàng hóa được miễn thuế của:

Dự án đầu tư

- Lĩnh vực, địa bàn đầu tư

- Hạng mục công trình

-

*(Nếu nhập khẩu hàng hóa cho toàn bộ dự án thì không cần ghi chi tiết
hạng mục công trình)*Theo Giấy chứng nhận đầu tư số....., ngày....., hoặc
.....được cấp bởi cơ quan.....Thời gian dự kiến xuất khẩu, nhập khẩu từ..... đến
.....

Cơ sở xác định hàng hóa xuất khẩu, nhập khẩu miễn thuế là:

1. Giấy chứng nhận đầu tư: ☐2. Giấy chứng nhận đầu tư mở rộng: ☐3. Quyết định của thủ trưởng cơ quan có thẩm quyền phê duyệt chương
trình dự án ODA: ☐4. Hợp đồng đóng tàu đối với NL, VT, BTP nhập khẩu phục vụ cho việc
đóng tàu: ☐5. Dự án sản xuất phần mềm: ☐6. Đề tài, đề án nghiên cứu khoa học và phát triển công nghệ được cấp có
thẩm quyền phê duyệt: ☐

7. Hợp đồng bán hàng hoặc hợp đồng cung cấp hàng hoá/hợp đồng uỷ thác nhập khẩu hàng hoá, hợp đồng cung cấp dịch vụ/hợp đồng cho thuê tài chính: ☐

8. Văn bản của cơ quan Nhà nước có thẩm quyền xác nhận phạm vi, hàng hóa miễn thuế theo Điều ước quốc tế: ☐

9. Xác nhận của cơ quan có thẩm quyền cấp Danh mục hàng hóa miễn thuế cho các dự án cấp trước ngày 01/01/2006: ☐

10. Khác⁽³⁾ : ☐

Các giấy tờ kèm theo công văn này gồm:

- 02 danh mục hàng hóa đăng ký nhập khẩu; 01 phiếu theo dõi, trừ lùi.

-

Tổ chức/cá nhân cam kết sử dụng hàng hóa nhập khẩu đúng mục đích đã được miễn thuế. Tổ chức/cá nhân sẽ thực hiện đúng quy định hiện hành về xuất nhập khẩu hàng hóa và chịu trách nhiệm trước pháp luật về cam kết này.

Tổ chức/cá nhân kính đề nghị Cơ quan hải quan ... cấp danh mục hàng hóa miễn thuế xuất khẩu, nhập khẩu cho Tổ chức/cá nhân theo quy định hiện hành./.

Nơi nhận

- Như trên

- Lưu

**NGƯỜI ĐẠI DIỆN THEO PHÁP LUẬT CỦA
DOANH NGHIỆP/THỦ TRƯỞNG CỦA TỔ CHỨC
(hoặc người được uỷ quyền)/CÁ NHÂN
(Ký tên, đóng dấu)**

.....
.....

Ghi chú:

(1) : Ghi tên tổ chức/ cá nhân đăng ký danh mục;

(2) : Ghi tên cơ quan hải quan nơi đăng ký danh mục

(3) : Ghi cụ thể số hiệu, ngày tháng của văn bản làm cơ sở xác định hàng hóa xuất khẩu, nhập khẩu miễn thuế.

NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Law No. 32/2013/QH13

Hanoi, June 19, 2013

LAW

ON THE AMENDMENTS TO THE LAW ON ENTERPRISE INCOME TAX

Pursuant to the Constitution of Socialist Republic of Vietnam 1992, amended in the Resolution No. 51/2001/QH10;

The National Assembly promulgates a law on the amendments to the Law on Enterprise income tax No. 14/2008/QH12.

Article 1. The amendments to the Law on Enterprise income tax:

1. Clause 3 of Article 2 is amended as follows:

“3. The permanent establishments of a foreign enterprise are the places through which the foreign enterprise carries out part or the whole business in Vietnam, including:

a) Branches, executive offices, factories, workshops, means of transport, oil fields, gas fields, mines or other natural resource extraction sites in Vietnam;

b) Construction sites;

c) Service providing centers, including counseling services via employees or other organizations or individuals;

d) Agents of foreign enterprises;

dd) Representatives in Vietnam that are competent to sign contracts under the name of the foreign enterprise or that are not competent to sign contracts under the name of the enterprise but regularly provide goods or services in Vietnam.”

2. Clause 2 of Article 3 is amended as follows:

“2. Other incomes include incomes from the transfer of capital, the right to capital contribution; incomes from transfer of real estate, project of investment, the right to participate in project of investment, the transfer of the right to explore, extract, and process minerals; incomes from the right to use property and property ownership, including incomes from intellectual property right; incomes from transferring, leasing, and liquidating assets, including valuable papers; incomes from interest on deposit, capital loan, sale of foreign currency; revenues from written off bad debts that are repaid; revenues from debts of unidentified debtors; omitted incomes in previous years, and other incomes, including incomes from business outside Vietnam.”

3. Clause 1 and Clause 4 of Article 4 is amended, Clauses 8, 9, 10, and 11 are added to Article 4 as follows:

“1. incomes from farming, breeding, aquaculture, salt production of cooperatives; incomes of cooperatives from agriculture, forestry, fisheries, and salt production in region of socio-economic

difficulties or region of exceptional socio-economic difficulties; incomes of enterprises from farming, breeding, aquaculture in region of exceptional socio-economic difficulties; incomes from fisheries.”

“4. Incomes from production and sale of goods and services of enterprises that have at least 30% of the employees are disabled people, detoxified people, suffers of HIV/AIDS, and have at least 20 employees, except for enterprises engaged in finance and real estate business.”

“8. Incomes from the transfer of Certified Emissions Reductions (CERs) of enterprises issued with CERs.

9. Incomes from the performance of tasks of the Vietnam Development Bank, which are assigned by the State, in credit for development and export; incomes from granting credit to the poor and beneficiaries of policies of Vietnam Bank for Social Policies; incomes of state financial funds and other state funds serving non-profit purpose incomes of organizations, of which 100% charter capital is possessed by the State, that are established by the Government to settle bad debts of Vietnamese credit institutions.

10. Undistributed incomes of private organizations, which make investment in education, health, and other fields, that are kept to serve their development in accordance with the laws on education, health, and other fields; the incomes that form the undistributed assets of cooperatives established and operating in accordance with the Law on Cooperatives.

11. Incomes from transfer of technologies that are prioritized to be to organizations and individuals in region of exceptional socio-economic difficulties.”

4. Clause 3 of Article 7 is amended as follows:

“3. Incomes from transfers of real estate, project of investment, the right to participate in projects of investments, the right to explore, extract, and process minerals must be separated. The loss on transfers of projects of investment (except for mineral exploration and mineral extraction projects), incomes from transfers of the right to participate in projects of investment (except for the mineral exploration and mineral extraction projects), incomes from transfer of real estate shall be offset against the profit in the tax period.”

5. Article 9 is amended as follows:

“Article 9. Deductible and non-deductible expenditures

1. Except for the expenditures mentioned in Clause 2 of this Article, all expenditures are deductible when calculating taxable income if they meet the conditions below:

- a) Actual expenditures related to the business of the enterprise; expenditures on National defense and security of enterprise according to law;
- b) Expenditures that have sufficient invoices and documents according to law. The sale invoices of 20 million VND must have receipts of non-cash payment, unless they are not required by law.

2. Non-deductible expenditures when calculating taxable income:

- a) The expenditures that fail to meet all conditions in Clause 1 of this Article, except for the loss cause by natural disasters, epidemics, and other force majeure that are not compensated.
- b) Fines for administrative violations;
- c) The expenditures that are covered by other budgets;

- d) The administrative expense allocated by the foreign enterprise to the permanent establishment in Vietnam that exceeds the limit imposed by Vietnam's law.
- dd) The extra expenditure according to the laws on making provision;
- e) The expenditure on interest on loans that are not given by credit institutions or economic organizations and exceed 150% of basic interest rates announced by the State bank of Vietnam when the loan is taken.
- g) Improper depreciation of fixed assets;
- h) Improper accrued expenses;
- i) Wages and remunerations of owners of private enterprises; wages of founders that do not participate in business management; wages, remunerations, and amounts payables to the employees that are not actually paid or do not have invoices according to law;
- k) The expenditures on loan interests corresponding to the charter capital deficit;
- l) Deducted input VAT, VAT paid using the deduction method, enterprise income tax;
- m) The expenditure on advertising, marketing, promotion, commissions, receptions, conferences, support for marketing and expenditures directly related to business that exceed 15% of the deductible amount. The total deductible amount does not include the expenditures in this Point; for commercial activities, the total deductible amount does not include the purchase prices of goods;
- n) Sponsorships, except for sponsorships for education, health, scientific research, disaster recovery, houses of unity, houses of gratitude, houses for beneficiaries of social policies according to law, sponsorships for region of exceptional socio-economic difficulties according to state programs;
- o) Voluntary payments to retirement funds or social security funds, payments for voluntary retirement insurance for employees that exceed the limits imposed by law;
- p) Expenditures on businesses: banking, insurance, lottery, securities, and some other special businesses specified by the Minister of Finance.

3. Expenditures in foreign currency, unless to serve the calculation of taxable incomes that must be converted into VND, according to the average exchange rates on the interbank foreign currency market that are announced by the State bank of Vietnam when the expenditures occur.

The Government shall elaborate and provide guidance on the implementation of this Article.”

6. Article 10 is amended as follows:

“Article 10. Tax rate

1. The enterprise income tax rate is 22%, except for the cases in Clause 2 and Clause 3 of this Article and beneficiaries of tax incentives defined in Article 13 of this Article.

The cases to which the tax rate of 22% in this Clause shall apply the tax rate of 20% from January 01, 2016.

2. Any enterprise of which the total revenue does not exceed 20 billion VND per year are eligible for the tax rate of 20%.

The revenue used as the basis for identifying enterprises eligible for the tax rate of 20% in this Clause is the revenue of the previous year.

3. The rates of enterprise income tax on the exploration and extraction of oil and other rare resources in Vietnam range between 32% and 50% depending on each project and each business establishment.

The Government shall elaborate and provide guidance on the implementation of this Article.”

7. Article 13 is amended as follows:

“Article 13. Tax incentives

1. The tax rate of 10% for 15 years is applicable to:

a) Incomes of enterprises from the execution of new projects of investment in region of exceptional socio-economic difficulties, economic zones, and hi-tech zones;

b) Incomes of enterprises from the execution of new projects of investment, including: scientific research and technology development; application of high technologies in the list of prioritized high technologies according to the Law on High Technologies; cultivation of high technologies, cultivation of hi-tech enterprises; high-risk investment in the development of high technologies in the list of prioritized high technologies according to the Law on High Technologies; investment in crucial infrastructure of the State; software production; production of composite materials, light building materials, rare materials, renewable energy, clean energy, energy from waste destruction; development of biological technology, and environment protection;

c) Incomes of hi-tech enterprises and agricultural enterprises that apply high technologies according to the Law on High Technologies;

d) Incomes of enterprises from the execution of new projects of investment in production (except for the production of articles subject to special excise duties and mineral extraction projects), which meet one of the two criteria below:

- Any project of which the capital is at least 6,000 billion VND that is released within 3 years from the day on which the Investment certificate is issued, and the total revenue reaches at least 10,000 billion VND within 3 years from the first year in which revenue is earned;

- Any project of which the capital is at least 6,000 billion VND that is released within 3 years from the day on which the Investment certificate is issued, and employ more than 3,000 workers.

2. The tax rate of 10% is applicable to:

a) Incomes of private enterprises from investment in education, vocational training, health, culture, sports, and environment;

b) Incomes of enterprises from the investments in social housing that are for sale, for lease, or for hire purchase according to Article 53 of the Law on Housing;

c) Incomes from press agencies from printing newspapers, including advertisements on printed newspapers according to the Law on Press; incomes of publishers from publishing according to the Law on Publishing;

d) Incomes of enterprises from planting, cultivating, and protecting forests; from agriculture, forestry, and aquaculture in region of socio-economic difficulties; from the production, multiplication, and cross-breeding plants and animals; from the production, extraction, and

refinement of salt, except for the production of salt in Clause 1 Article 4 of this Law; from investment in post-harvest preservation of agriculture products, aquaculture products, and food;

dd) Incomes of cooperatives from agriculture, forestry, fisheries, and salt production that are not in region of socio-economic difficulties or region of exceptional socio-economic difficulties, except for incomes of the cooperatives defined in Clause 1 Article 4 of this Law.

3. The tax rate of 20% for 15 years is applicable to:

a) Incomes of enterprises from the execution of new projects of investment in region of socio-economic difficulties;

b) Incomes of enterprises from the execution of new projects of investment, including: production of high-grade steel; production of energy-saving products; production of machinery and equipment serving agriculture, forestry, aquaculture, salt production; production of irrigation equipment; production and refinement of feed for livestock, poultry, and aquatic organism; development of traditional trades.

From January 01, 2016, incomes of the enterprises defined in this Clause are eligible for the tax rate of 17%.

4. The tax rate of 20% is applicable to incomes of people's credit funds and microfinance institutions,

From January 01, 2016, incomes of people's credit funds and microfinance institutions are eligible for the tax rate of 17%.

5. For special projects that need to attract a lot of investment and high technologies, the period of preferential tax rates may be extended, but the extension shall not exceed 15 years.

6. The period of preferential tax rates in this Article begins from the first year in which revenue from the new project of investment is earned; for hi-tech enterprises and agricultural enterprises that apply high technologies, this period begins from the day on which the certificate of hi-tech enterprise or certificate of hi-tech agricultural enterprise is issued; for projects of high technology application, this period begins from the day on which the certificate of hi-tech application project is issued.

The Government shall elaborate and provide guidance on the implementation of this Article.”

8. Article 14 is amended as follows:

“Article 14. Preferential duration of tax exemption and tax reduction

1. Incomes of enterprises from the execution of new projects of investment provided for in Clause 1 and Point a Clause 2 Article 13 of this Law, incomes of hi-tech enterprises, hi-tech agricultural enterprises are eligible for tax exemption for no more than 4 years, and eligible for 50% reduction in tax for no more than the next 9 years.

2. Incomes of enterprises from the execution of new projects of investment provided for in Clause 3 Article 13 of this Law, incomes of enterprises from the execution of new projects of investment in industrial parks, except for industrial parks in advantaged localities, are eligible for tax exemption for no more than 2 years, and eligible for 50% reduction in tax for no more than the next 4 years.

3. The period of tax exemption and tax reduction applicable to incomes of enterprises from the execution of new projects of investment in Clause 1 and Clause 2 of this Article begins from the

first year in which taxable income from projects of investment is earned. If no taxable income is earned in the first three years from the first year in which revenue from the project is earned, the period of tax exemption and tax reduction shall begin from the fourth year. The period of preferential tax rates applicable to hi-tech enterprises and agricultural enterprises that apply high technologies mentioned in Point c Clause 1 Article 13 of this Law begins from the day on which the certificate of hi-tech enterprise or certificate of hi-tech agricultural enterprise is issued.

4. When an enterprise, which has projects of investment in the fields or localities eligible for enterprise income tax incentives according to this Law, expands the production scale, increases the productivity, upgrades production technologies (expansion), it may choose between tax incentives for operating projects for the remaining time (if any) or tax exemption or reduction for the additional incomes from expansion if one of the three criteria in this Clause is satisfied. The period of tax exemption and tax reduction for the additional incomes from expansion in this Clause is equal to the period of tax exemption and tax reduction for new projects of investment in the same field or locality that is eligible for enterprise income tax incentives.

The expansion must satisfy one of the criteria below to be given incentives:

- a) The cost of additional fixed assets reaches at least 20 billion VND when the project of investment is completed and commenced, applicable to expanding investments in the fields eligible for enterprise income tax according to this Law, or at least 10 billion VND, applicable to expanding investments in region of socio-economic difficulties or region of exceptional socio-economic difficulties;
- b) The proportion of cost of additional fixed assets reaches at least 20% of the total cost of fixed assets before investment;
- c) The design production increases by at least 20% of the design production before investment.

When an enterprise invests in expansion in a field or locality eligible for tax incentives according to of this Law but fails to satisfy any criterion above, the tax incentives shall apply to the remaining period of the project (if any).

Where an enterprise is eligible for tax incentives for expansion, the additional income from expansion shall be recorded separately; if it is not able to be recorded separately, the income from expansion shall be determined based on the ration of the cost of new fixed assets to the total cost of fixed assets of the enterprise.

The period of tax exemption and tax reduction in this Clause begins from the year in which the project of investment is finished and its operation is commenced.

The tax incentives in this Clause are not applicable to the extensions on account of merger or acquisition of enterprises or operating projects of investment. The Government shall elaborate and provide guidance on the implementation of this Article.”

9. Clause 3 is added to Article 15 as follows:

“3. Any enterprise that transfers technologies that are prioritized to other organizations and individuals in region of socio-economic difficulties are eligible for 50% reduction in enterprise income tax on the income from technology transfers.”

10. Article 16 is amended as follows:

“Article 16. Transferring loss

1. An enterprise may transfer its loss to the next year; this loss is deducted from assessable income. The period of loss transfer must not exceed 5 years from the year succeeding the year in which the loss is incurred.

2. Any enterprise which is still at a loss after offsetting its loss on transfers of real estate, transfers of projects of investment, transfers of the right to participate in project of investment, according to Clause 3 Article 7 of this Law, and any enterprise which makes a loss from transfers of the right to explore and extract minerals may transfer the loss to the next year and offset it against the assessable incomes from such activities. The period of loss transfer shall comply with Clause 1 of this Article.”

11. Clause 1 of Article 17 is amended as follows:

“1. Any enterprise established and operated within Vietnam’s law may use no more than 10% of the annual assessable income to establish its science and technology development fund. Apart from establishing the science and technology development fund, state-owned enterprise must ensure the minimum amount for the fund according to the laws on science and technology.”

12. Article 18 is amended as follows:

“Article 18. Conditions for tax incentives

1. The enterprise income tax incentives provided for in Article 13, 14, 15, 16, and 17 of this law are applicable to the enterprises that follow the regime for accounting and invoicing, and pay tax according to declarations.

Enterprise income tax incentives for new project of investment defined in Article 13 and Article 14 of this Law are not applicable to division, merger, amalgamation, and conversion of enterprises, change of ownership, and other cases according to law.

2. Enterprises must separate the incomes from the operations eligible for tax incentives defined in Article 13 and Article 14 of this Law from the incomes from the operations that are not eligible for tax incentives; if such incomes are not able to be separated, the income from the operations eligible for tax incentives shall be determined based on the ratio of the revenue from the operations eligible for tax incentives to the total revenue of the enterprise.

3. The tax rate of 20% in Clause 2 Article 10 and the tax incentives in Clause 1 and Clause 4 Article 4, Article 13, and Article 14 of this Law are not applicable to:

a) Incomes from transfer of capital, transfers of the right to contribute capital; incomes from the transfers of real estate, except for social housing specified in Article 13 of this Law; incomes from transfers of projects of investment, transfers of the right to participate in projects of investments, transfers of the right to explore and extract minerals; incomes from operations outside Vietnam;

b) Incomes from the exploration and extraction of petroleum and other rare resources, and incomes from mineral extraction;

c) Incomes from services subject to special excise duty according to the Law on Special excise duty;

d) Other cases decided by the Government.

4. If an enterprise is eligible to multiple tax incentives for the same income at the same time, it may choose the most advantageous incentive.”

Article 2.

1. This Law takes effect on January 01, 2014, except from Clause 2 of this Article.

2. The regulations on the application of the tax rate of 20% to the enterprises of which the total annual revenue does not reach 20 billion VND in Clause 6 Article 1, and the regulations on the application of the tax rate of 10% to the incomes of enterprises from the social housing in Clause 7 Article 1 of this Law takes effect on July 01, 2013.

3. The enterprises having projects of investment that are still eligible for enterprise income tax incentives after the end of the tax period 2013 (tax rate, tax exemption or reduction duration) according to the legislative documents on enterprise income tax before this Law takes effect are still eligible for such incentives for the remaining time according to such documents. Where the conditions for tax incentives in this Law are satisfied, enterprises may choose between the incentives they are having or the incentives in this Law for the remaining time, applicable to new investments or extension.

By the end of the tax period 2015, enterprises having projects of investment that are eligible for the preferential tax rate of 20% in Clause 3 Article 13 of the Law on Enterprise income tax No. 14/2008/QH12 amended in Clause 4 Article 1 of this Law are eligible for the tax rate of 17% for the remaining time from January 01, 2016.

4. The following regulations on enterprise income tax are annulled:

- a) Clause 2 Article 7 of the Law on Deposit insurance No. 06/2012/QH13;
- b) Clause 2 Article 4 of the Law on Health insurance No. 25/2008/QH12;
- c) Clause 1 of Article 10; Clause 1 of Article 12; Clause 2 of Article 18; Clause 2 of Article 19; Clause 1 and Clause 2 of Article 22; Clause 3 of Article 24 and Clause 2 of Article 28 of the Law on High Technologies No. 21/2008/QH12;
- d) Clauses 1, 4, 5, 6, 7, and 8 of Article 44, and Article 45 of the Law on Technology transfers No. 80/2006/QH11;
- dd) Clause 1 of Article 53, Clause 5 of Article 55, and Clause 3 of Article 86 of the Law on Enterprises No. 76/2006/QH11;
- e) Clause 1 of Article 68 of the Law on Vietnamese guest workers No. 72/2006/QH11;
- g) Clause 2 Article 6 of the Law on Social insurance No. 71/2006/QH11;
- h) Clause 3 Article 8 of the Law on Legal Assistance No. 69/2006/QH11;
- i) Clause 3 Article 66 of the Law on Higher Education No. 08/2012/QH13;
- k) Article 34 of the Law on Disabled people No. 25/2008/QH12;
- l) Clause 4 Article 33 of the Law on Investment No. 59/2005/QH11;
- m) Clause 2 of Article 58, Clause 2 of Article 73, Clause 3 of Article 117, and Clause 3 of Article 125 the Law on Enterprises no. 60/2005/QH11.

5. The Government shall elaborate and provide guidance on the implementation of this Law.

This Law is passed by the 13th National Assembly of Socialist Republic of Vietnam in the 5th session on June 19, 2013

PRESIDENT OF THE NATIONAL ASSEMBLY

Nguyen Sinh Hung

THE GOVERNMENT

No. 53/2011/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

Hanoi, July 01, 2011

DECREE

**DETAILING AND GUIDING A NUMBER OF ARTICLES OF THE LAW ON NON-
AGRICULTURAL LAND USE TAX**

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 17, 2010 Law on Non-Agricultural Land Use Tax;

At the proposal of the Minister of Finance,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details and guides a number of articles of the Law on Non-Agricultural Land Use Tax.

Article 2. Tax-liable objects

Objects liable to non-agricultural land use tax are defined in Article 2 of the Law on Non-Agricultural Land Use Tax, specifically as follows:

1. Residential land in rural and urban areas.
2. Non-agricultural production and business land specified in Clause 2. Article 2 of the Law on Non-Agricultural Land Use Tax. including:
 - a/ Land for construction of industrial parks, including industrial clusters, industrial parks. export-processing zones and other production and business /ones, to which a common land use regime is applied:
 - b/ Land for construction of production and business establishments, including industrial production, collage industry and handicraft businesses, service and trade establishments and other facilities in support of production and business operations (including also land for construction of production and business establishments in hi-tech parks and economic zones):
 - c/ Land for mineral mining and land used as mineral processing sites, except cases in which mineral mining activities do not affect the top soil layer or the land surface;
 - d/ Land for production of construction materials or pottery, including land used as raw materials and land used as construction material processing and production sites or sites for making pottery.
3. Non-agricultural land defined in Article 3 of this Decree which is used by organizations, households or individuals for commercial purposes.

Article 3. Objects not liable to tax

Non-agricultural land used for non-commercial purposes specified in Article 3 of the Law on Non-Agricultural Land Use Tax are not liable to tax, specifically:

1. Land used for public purposes, including:

a/ Traffic and irrigation land, including land for construction of roads, bridges, sluices, pavements, railways, airport and airfield infrastructure, including also land planned for construction of airports or airfields under phased investment projects which have been approved but not yet implemented, land for construction of water supply systems (excluding water plants), water drainage systems, irrigation work systems, dikes and dams, and land within traffic and irrigation safety corridors;

b/ Land for construction of public cultural, healthcare, education and training, physical training and sport facilities, including crèches, schools, hospitals, marketplaces, parks, flower gardens, children's recreation centers, squares, cultural works, post-cultural spots of communes, wards and townships, monuments, commemorative stelae, museums, functional rehabilitation institutions for persons with disabilities, vocational training schools, drug detoxification institutions, reformatories, dignity restoration camps and nursing homes for elderly persons and disadvantaged children;

c/ Land with historical and cultural relics or scenic places which have been ranked or placed under protection under decisions of People's Committees of provinces and centrally run cities (below referred to as provincial-level People's Committees);

d/ Land for construction of other public works, including land used for public-utility purposes in urban centers and rural residential areas; land for construction of common-utility infrastructure facilities in industrial parks, hi-tech parks and economic zones under approved plans; land for construction of power transmission lines, communication networks, petrol, oil and gas pipelines and their safety corridors; land of power stations, irrigation reservoirs and dams; land of funeral halls and crematories; land of landfills, garbage dumping grounds and waste treatment complexes approved by competent state agencies.

2. Land used by religious institutions, including land of pagodas, churches, oratories, chancels, monasteries, religious training institutions, offices of religious organizations and other religious establishments permitted by the State.

3. Land used as cemeteries and graveyards.

4. Land under rivers, canals, ditches, streams and special-use water surface;

5. Land with communal houses, temples, hermitages, clans' worship halls, including land areas for building these works and their premises;

6. Land for construction of working offices and non-business works, including;

a/ Land of working offices of state agencies, political organizations, socio-political Organizations and public non-business organizations; offices of Vietnam-based diplomatic representative missions and foreign consulates and intergovernmental international organizations entitled to privileges and immunities like foreign diplomatic representative missions in Vietnam;

b/ Land of economic, cultural, social, scientific and technological and diplomatic non-business establishments of state agencies, political organizations, socio-political organizations and public non-business organizations.

7. Land used for defense and security purposes, including:

a/ Land of barracks and army camps;

b/ Land of military bases:

c/ Land of national defense works, battlefields and other special defense and security works;

d/ Land of military stations and ports:

e/ Land of industrial and science and technology works in direct service of national defense and security:

f/ Land of warehouses of the people's armed force units;

g/ Land of firing ranges, drill grounds, weapon testing grounds and weapon disposal sites;

h/ Land of guest houses, public-duty houses, competition halls, gyms and other facilities within barracks and camps of the people's armed force units;

i/ Land of prisons, detention houses, educational institutions and reformatories managed by the Ministry of National Defense or the Ministry of Public Security:

j/ Land of other combat works and defense and security works specified by the Government.

8. Non-agricultural land for construction of works of cooperatives engaged in agricultural or forestry production, aquaculture and salt-making: land in urban areas which is used for construction of glasshouses and other buildings for farming purposes, including cases in which crops are not planted directly on land; land for construction of farms for raising livestock, poultry and other animals as permitted by law; land for construction of research and testing farms and stations in the agriculture, forestry and fishery sectors; land for construction of plant and animal nurseries: land for construction of households' and individuals' warehouses for storing farm produce, plant protection drugs, fertilizers and agricultural machines and tools.

Chapter II

TAX TASKS. TAX REGISTRATION, DECLARATION. CALCULATION AND PAYMENT AND TAX EXEMPTION AND REDUCTION

Article 4. Taxable land area

Taxable land area is the area of non-agricultural land actually used.

1. In case a taxpayer has the right to use many land plots within a province or centrally run city, the taxable land area is the total area of taxable land plots.

2. For residential land of a multi-story building with many users or a condominium, including those with areas for both dwelling and commercial purposes, the taxable land area of each organization, household or individual shall be determined to be equal to the allocation coefficient multiplied by the area of the apartment (work) used by such organizations, household or individual.

$$\text{Allocation coefficient} = \frac{\text{Construction land area of the}}{\quad}$$

applicable to a building or
condominium without
basement

$$\frac{\text{building or condominium}}{\text{Total area of apartments used
by organizations households
and individuals}}$$

$$\begin{array}{c} \text{Allocation} \\ \text{coefficient} \\ \text{applicable to a} \\ \text{building or} \\ \text{condominium with} \\ \text{a basement} \end{array} = \frac{\begin{array}{c} \text{Construction land area of the building or} \\ \text{condominium} \\ \hline \text{Total area of} \\ \text{apartments used by} \\ \text{organizations,} \\ \text{households and} \\ \text{individuals (ground} \\ \text{sections)} \end{array} + \begin{array}{c} 50\% \text{ of the} \\ \text{basement area used} \\ \text{by organizations,} \\ \text{households and} \\ \text{individuals} \end{array}}$$

$$\begin{array}{c} \text{Allocation coefficient} \\ \text{applicable to an underground} \\ \text{work} \end{array} = \frac{\begin{array}{c} 50 \times \text{Ground land area corresponding to the} \\ \text{underground work} \\ \hline \text{Total area of the underground work used by} \\ \text{organizations, households and individuals} \end{array}}$$

The area of the apartment (work) used by an organization, household or individual is the floor area actually used by such organization, household or individual stated in the sale/ purchase contract or the certificate of the right to use land or own houses or assets attached to land (the certificate).

Article 5. Price of a square meter of taxable land

1. The price of a square meter of taxable land is the price of land based on the use purpose of the taxable land plot which is set by the provincial-level People's Committee and shall be kept unchanged for a 5-year period stating on January 1, 2012.
2. In case of changing taxpayers or arising any elements that lead to the change of the price of a square meter of taxable land during a stabilization period, the price of a square meter of taxable land shall be kept unchanged for the remainder of the period.
3. In case land is allocated or leased by the State and its use purposes is converted from agricultural to non-agricultural purpose or from non-agricultural production and business to residential purpose during a stabilization period, the price of a square meter of taxable land is the price of land based on its use purpose, which is set by the provincial-level People's Committees at the time of land allocation or lease or at the time of converting the land use purposes and kept unchanged for the remainder of the period.

Article 6. Residential land quotas for tax calculation

1. For residential land which is allocated from January 1. 2012. on. the residential land quota used as a basis for tax calculation is the quota set by the provincial-level People's Committee at the time of land allocation.
2. For residential land which is used before January 1, 2012, the residential land quota used as a basis for tax calculation shall be determined as follows:

a/ If, at the time of grant of a certificate, the provincial-level People's Committee already set a residential land allocation or recognition quota and the land area stated in the certificate was determined according to the residential land recognition quota, such quota shall be used as a basis for tax calculation. If the residential recognition quota is lower than the current residential land allocation quota, the latter will be used as a basis for tax calculation:

b/ If, at the time of grant of a certificate, the provincial-level People's Committee already set a residential land allocation or recognition quota and the land area stated in the certificate was determined according to the residential land allocation quota, such quota shall be used as a basis for tax calculation. If the residential land allocation quota is lower than the current residential land allocation quota, the latter will be used as a basis for tax calculation;

c/ If, at the time of grant of a certificate, the provincial-level People's Committee did not yet set a residential land allocation or recognition quota, the whole residential land area stated in the certificate will be regarded as residential land within the set quota:

d/ No residential land quota will apply to cases without certificates. When land users are granted certificates, the residential land quota used as a basis for tax calculation complies with the principles laid down at Points a, b and e of this Clause.

3. In case of changing taxpayers, the residential land quota used as a basis for tax calculation is the current residential land allocation quota set by the provincial-level People's Committee, which will be applied from the subsequent tax year, except cases of changing taxpayers due to inheritance or giving as gifts between husband and wife; natural parent and natural child; adoptive parent and adopted child; parent-in-law and son-in-law or daughter-in-law; grandparent and grand child; or between siblings. In these cases, the set residential land quota applicable to the transferor shall be used as a basis for tax calculation.

4. No residential land quota will apply to encroached or appropriated land, land used for improper purposes or land left unused against regulations.

Article 7. Tax registration, declaration, calculation and payment

1. Taxpayers shall register, declare, calculate and pay tax under the law on tax administration.

2. Taxpayers may register, declare, calculate and pay tax at tax offices of rural districts, urban districts, towns or provincial cities in which they have land use rights or declare and pay tax to agencies and individuals authorized by tax offices according to law (below collectively to as district-level tax offices).

Taxpayers in difficult-to-access deep-lying or remote areas may register, declare, calculate and pay tax at commune-level People's Committees.

3. Taxpayers who have the right to use many land plots within a province or centrally run city shall register, declare, calculate and pay tax as follows:

a/ Taxpayers shall register, declare, calculate and pay tax for each of residential land plots for which they have use rights at the district-level tax office of the locality in which it/he/ she has land use rights like the case of having a single land plot:

b/ A taxpayer who has none of its/his/her land plots in excess of the set residential land quotas in the localities where such land plots exist may choose any of these quotas for determining the payable tax amount. The residential land area in excess of the set quota shall be determined to be

equal to the total area of all residential land plots for which the taxpayer has use rights minus the residential land quota chosen by the taxpayer:

c/ A taxpayer who has one residential land plot in excess of the set quota shall use the quota applicable in the locality in which such land plot exists for determining the payable tax amount. The residential land area in excess of the set quota shall be determined to be equal to the excessive area of the land plot in the chosen locality plus the total area of other land plots for which the taxpayer has use rights:

d/ A taxpayer who has two or more residential land plots in excess of the residential land quotas may choose the residential land quota in the locality where one of these land plots exists for determining the payable tax amount. The residential land area in excess of the set quota shall be determined to be equal to the excessive area of the land plot in the chosen locality plus the total area of other land plots for which the taxpayer has use rights;

e/ Taxpayers shall make a general declaration according to a form set by the Ministry of Finance for determining the total area of residential land plots for which they have the use rights and the paid tax amount, and send this declaration to the tax office of the locality they have chosen for determining the residential land quota in order to pay the difference between the tax amount payable under this Decree and the tax amounts already paid to the district-level tax offices of the localities where they have land use rights.

4. The Ministry of Finance shall specify the tax registration, declaration, payment and calculation provided in this Decree.

Article 8. Tax exemption and reduction and principles thereof

Entities eligible for non-agricultural land use tax exemption or reduction and tax exemption and reduction principles comply with Articles 9, 10 and 11 of the Law on Non-Agricultural Land Use Tax. Some contents are specified as follows:

1. Lists of domains eligible for investment promotion: domains eligible for special investment promotion: region of socio-economic difficulties; and region of exceptional socio-economic difficulties specified in Clauses 1 and 4. Article 9, and Clauses 1 and 2. Article 10, of the Law on Non-Agricultural Land Use Tax comply with the investment law. .

2. Establishments carrying out socialized activities eligible for tax exemption specified in Clause 2. Article 9 of the Law on Non-Agricultural Land Use Tax must -satisfy the requirements on forms, operation scopes and standards applicable to establishments carrying out socialized educational, vocational training, healthcare, cultural, sports or environmental activities prescribed in the Prime-Minister's decisions.

3. Poor households eligible for tax exemption under Clause 6, Article 9 of the Law on Non-Agricultural Land Tax Use shall be determined under the Prime Minister's decision on the poverty line. In case provincial-level People's Committees have specified the poverty lines applicable in their localities according to law, the poverty lines promulgated by provincial-level People's Committees shall apply.

Chapter III

IMPLEMENTATION PROVISIONS

Article 9. Responsibilities of a number of ministries and provincial-level People's Committees

1. In the third quarter of 2011, the Ministry of Natural Resources and Environment shall promulgate a document to provide and guide local natural resources and environment agencies in identifying areas of land used for improper purposes, encroached or appropriated land or land left unused against regulations to serve as a basis for tax calculation according to the Law on Non-Agricultural Land Use Tax.

2. The Ministry of Finance shall:

a/ Direct the building of a tax collection administration database on the basis of the land management database supplied by natural resources and environment agencies;

b/ Guide and direct tax offices to organize and manage the collection of non-agricultural land use tax under this Decree and the tax administration law.

3. Provincial-level People's Committees shall:

a/ Set and announce land prices and residential land quotas applicable to each area and in each period to serve as a basis for tax calculation under this Decree.

b/ Direct local agencies and units to properly implement the Law on Non-Agricultural Land Use Tax and this Decree.

Article 10. Effect and implementation guidance

1. This Decree takes effect on January 1, 2012, and replaces the Government's Decree No. 94-CP of August 25, 1994, detailing the Ordinance on House and Land Tax and the Ordinance Amending and Supplementing a Number of Articles of the Ordinance on House and Land Tax.

2. The Ministry of Finance shall guide the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and concerned organizations and individuals shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 12/2015/NĐ-CP

Hanoi, February 12, 2015

DECREE

**ON ELABORATION OF THE LAW ON AMENDMENTS TO TAX LAWS AND
AMENDMENTS TO SOME ARTICLES OF DECREES ON TAXATIONS**

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

Pursuant to the Law on Tax administration dated November 29, 2006 and the Law on the amendments to the Law on Tax administration dated November 20, 2012;

Pursuant to the Law on Tax administration dated November 29, 2006 and the Law on the amendments to the Law on Tax administration dated November 20, 2012;

Pursuant to the Law on Value-added tax dated June 03, 2008 and the Law on the amendments to the Law on Value-added tax dated June 19, 2013;

Pursuant to the Law on Corporate income tax dated June 03, 2008 and the Law on amendments to the Law on Corporate income tax dated June 19, 2013;

Pursuant to the Law on Severance tax dated November 25, 2009;

Pursuant to the Law on amendments to tax laws dated November 26, 2014;

At the request of the Minister of Finance,

The Government promulgates a Decree on elaboration of the Law on Amendments to tax laws and amendments to some Articles of Decrees on taxations.

Article 1. Amendments to some Article of the Government's Decree No. 218/2013/NĐ-CP dated December 26, 2013 on elaboration of the Law on Corporate income tax, Article 1 of the Government's Decree No. 91/2014/NĐ-CP dated October 01, 2014 on amendments to Decrees on taxations:

1. Clause 3 of Article 3 is amended as follows:

“3. Taxable incomes earned in Vietnam by foreign enterprises prescribed in Points c and d Clause 2 Article 2 of the Law on Corporate income tax are incomes derived in Vietnam from provision of services, provision and distribution of goods, grant of loans, payment for copyrights for Vietnamese entities or foreign entities doing business in Vietnam, or from transfer of capital,

projects of investment, right to contribute capital, right to participate in projects of investment, right to mineral exploration, extraction, and refinement of minerals, regardless of the location of business premises.

Taxable incomes mentioned in this Clause do not include incomes from services provided outside Vietnam's territory such as: overseas repair of vehicles, machinery, equipment; overseas advertising, marketing, investment promotion, and trade promotion; overseas brokerage of goods sale, brokerage of service provision; overseas training; division of charges for international telecommunications and postal services for foreign parties.

The Ministry of Finance shall provide specific guidelines for taxable incomes prescribed in this Clause.”

2. Clause 1 of Article 4 is amended as follows:

“1. Incomes from farming, breeding, aquaculture, agro-processing, fish processing, salt productions of cooperatives; incomes of cooperatives from farming, forestry, aquaculture, salt production in disadvantaged areas or extremely disadvantaged areas; incomes of enterprises from farming, breeding, aquaculture, agro-processing, fish processing in extremely disadvantaged areas; incomes from fishing.

Cooperatives engaged in agriculture, forestry, aquaculture, salt production prescribed in this Clause and Clause 2 Article 15 of this Decree are those that achieve the required ratio of product and service provision for members being individuals, households, and legal entities engaged in agriculture, forestry, aquaculture, salt production as prescribed by the Law on Cooperatives and its guiding documents.

Income from agro-processing, fish processing eligible for tax incentives prescribed in this Decree must satisfy all of the conditions below:

- The proportion of value of raw materials (farm produce, aquaculture products) to production cost is at least 30%.
- Products derived from agro-processing, fish processing are not subject to special excise tax, unless otherwise prescribed by the Prime Minister according to proposals of the Ministry of Finance.”

3. Clause 9 of Article 4 is amended as follows:

"9. Incomes from performance of tasks given by the State of the Vietnam Development Bank with regard to development investment credit, export credit; incomes from extension of credit to the poor and other beneficiaries of incentive policies defined by Vietnam Bank for Social Policies; incomes of VAMC; incomes from profitable activities during performance of tasks given by the State of state funds: Vietnam Social Insurance Fund, Deposit Insurance of Vietnam, Health Insurance Fund, Vocational Training Support Fund, Overseas Employment Support Fund affiliated to the Ministry of Labor, War Invalids and Social Affairs, Farmer Support Fund,

Vietnam Legal Assistance Fund, Public Telecommunications Fund, local Development Investment Funds, Vietnam Environmental Protection Fund, Credit Guarantee Fund for Medium and Small Enterprises, Cooperatives Development Fund, Poor Woman Support Fund, Fund for Protection of Overseas Vietnamese Citizens and Legal Entities, Housing Development Fund, Fund for Development of Medium and Small Enterprises, National Science and Technology Development Fund, National Technological Innovation Fund, Science and Technology Development Funds of Ministries, regulatory bodies, and local governments established under the Law on Science and technology, Fund for Self-employment of the poor, incomes from performance of tasks given by the State of Land Development Fund and other non-profit state funds prescribed or established by the Government or the Prime Minister and operated in accordance with law.”

4. Clause 12 is added to Article 4 as follows:

“12. Incomes of bailiff offices during pilot period as prescribed by law.”

5. Point a Clause 1 of Article 9 is amended as follows:

“a) Actual expenditures on the enterprise’s operation, including the following expenditures:

- Expenditures on provision of defense and security education, training, operation of the militia, and performance of other defense and security tasks as prescribed by law; expenditures on support for operation of Communist Party organizations and intramural socio-political organizations of enterprises;

- Expenditures on provision of vocational education and vocational training for employees as prescribed by law;

- Actual expenditures on prevention and control of HIV/AIDS at work of enterprises, including: expenditure on provision of training for enterprise’s employees in charge of HIV/AIDS prevention and control, expenditure on propagation on HIV/AIDS prevention and control among enterprises’ employees, cost of consultancy, diagnosis, and HIV testing, expenditures on support for HIV sufferers being enterprises’ employees.”

6. Point e Clause 2 of Article 9 is amended as follows:

“e) Expenditure on loan interest in proportion to the deficit of charter capital according to the capital contribution schedule in the enterprise’s charter; loan interest during the investment process that has been included in investment value; interest on loans serving execution of contracts for petroleum exploration and extraction.

If an enterprise has fully contributed charter capital and incur interest on loans serving investment in other enterprises during its business operation, such interest shall be included in deductible expenses when determining taxable income.”

7. Point o Clause 2 of Article 9 is amended as follows:

“o) The amount in excess of 01 million/month/person used for contribution to voluntary pension fund, purchase of voluntary pension insurance for employees; the amount in excess of the limits prescribed by regulations of law on social insurance and health insurance used for contributions to social security funds (social insurance, additional pension insurance), health insurance fund, and unemployment insurance fund for employees;

The expenditure on contribution to voluntary pension fund, social security funds, purchase of voluntary pension insurance for employees may be included in deductible expenses as prescribed in this Clause, provided the requirements and levels of benefits are written in one of the following documents: employment contract; collective bargaining agreement, the financial regulation of the company, parent company, or corporation; the reward scheme established by the Chairperson of the Board of Directors, General Director, or Director as prescribed by the financial regulation of the company or parent company;”

8. Clause 1 of Article 11 is amended as follows:

“1. Corporate income tax payable in the tax period shall equal assessable income multiplied by (x) tax rate.

Where a Vietnamese company who makes investment in a foreign country that has entered into a Double Taxation Agreement with Vietnam transfers an amount of income to Vietnam after having paid corporate income tax in such foreign country, regulations of such Agreement shall apply. If such foreign country has not entered into a Double Taxation Agreement with Vietnam and the rate of corporate income tax incurred in such country is lower than that in Vietnam, the difference between tax incurred in the foreign country and tax incurred in Vietnam shall be collected.

9. Point dd Clause 1 of Article 15 is amended as follows:

“dd) Income of an enterprise from execution of a new project of investment in manufacturing (except for projects of manufacturing of products subject to special excise tax, mineral extraction projects) that satisfy one of the following conditions:

- The capital investment in the project is at least VND 6,000 billion, which is disbursed within 03 years from the date of permission for first investment as prescribed by regulations of law on investment, and total revenue is at least VND 10,000 billion per year within 03 years from the first year in which revenue is earned.

- The capital investment in the project is at least VND 6,000 billion, which is disbursed within 03 years from the date of permission for first investment as prescribed by regulations of law on investment, and the project regularly employs more than 3,000 employees within 03 years from the first year in which revenue is earned.

The number of regular employees is determined in accordance with regulations of law on employment.”

10. Point e Clause 1 of Article 15 is amended as follows:

“e) Income of enterprises from execution of manufacturing projects, except for projects of manufacturing of products subject to special excise tax and mineral extraction projects, the capital investment in which is at least VND 12,000 billion, the technologies used for which are assessed in accordance with the Law on High technology, the Law on science and technology, and registered capital in which is disbursed within 05 years from the day on which the investment is licensed as prescribed by regulations of law on investment.”

11. Point g is added to Clause 1 of Article 15 as follows:

“g) Income of enterprises from execution of new projects for manufacturing of products on the List of ancillary industry products given priority that meet one of the following criteria:

- Ancillary industry products are meant for high technologies as prescribed by the Law on High technology;

- Ancillary industry products are meant for products of following industry: textile – garment; leather – footwear; electronics - IT, car manufacturing and assembly; mechanical engineering that, by January 01, 2015, cannot be manufactured in Vietnam or can be manufactured in Vietnam as long as EU’s technical standards or equivalent standards are met.

Regulations of the government shall apply to the List of ancillary industry products given priority and eligible for tax incentives mentioned in this Clause.”

12. Point a Clause 2 of Article 15 is amended as follows:

“a) Income of enterprises from investment in education and training, vocational training, healthcare, sports, environment, judicial expertise (hereinafter referred to as PSI enterprises).

The types, scales, standards of PSI enterprises shall be prescribed by the Prime Minister;”

13. Point dd Clause 2 of Article 15 is amended as follows:

“dd. Incomes of enterprise from: planting, cultivation, protection of forests; farming, breeding, aquaculture, agro-processing, fish processing, salt productions in disadvantaged areas; forestry in disadvantaged areas; production, multiplication, and cross-breeding of plant varieties and animal breeds; salt production, extraction, and refinement, except for the case of salt production prescribed in Clause 1 Article 4 of this Decree; investment in post-harvest preservation, preservation of farm produce, aquaculture products, and foods, including investment in direct preservation an investment in preservation services;”

14. Clause 3a is added to Article 15 as follows:

“3a. 15% tax is applied to incomes of enterprises from farming, breeding, and agro-processing and fish processing in areas other than disadvantaged areas and extremely disadvantaged areas.”

15. Clause 5a is added to Article 15 as follows:

“5a. The duration of application of concessional tax to the projects mentioned in Point e Clause 1 of this Article may be extended up to 15 years if one of the following criteria is met:

- The products are able suitable for global competition, the revenue exceeds VND 20,000 billion within 05 years from the first year in which revenue is earned from the project;
- More than 6,000 employees are regularly employed as prescribed by regulations of law on employment;
- The project is pertaining to economic – technical infrastructure, including: investment in development of water plants, power plants, water supply and drainage systems, bridges, roads, railroad, airports, sea ports, river ports, train stations, new energies, clean energies, energy-saving technology, oil refinement projects.

The government shall decide extension of duration of application of concessional tax at the request of the Minister of Finance.”

16. Point a Clause 1 of Article 16 is amended as follows:

“a) Incomes of enterprises prescribed in Clause 1 Article 15 of this Decree.”

17. Point dd Clause 2 of Article 19 is amended as follows:

dd) Concessional corporate income tax prescribed in Clause 1, Clause 4 of Article 4, Article 15, and Article 16 hereof shall not apply to incomes of enterprises from projects of investment in trading, services outside economic zones, hi-tech zones, industrial parks, and regions eligible for tax incentives.”

18. Clause 5 of Article 19 is amended as follows:

“5. New projects of investment (including private notary offices established in disadvantaged areas or extremely disadvantaged areas) shall be eligible for tax incentives prescribed in Clause 1, Clause 3 of Article 15, Clause 1, Clause 2, Clause 3 or Article 16 hereof if they are first or independent from any in-progress project, except for:

- a) Projects of investment originated from division, acquisition, consolidation, conversions of enterprises as prescribed by law, except for the case in Clause 6 Article 19 of this Decree.
- b) Projects of investment originated from replacement of owner (including new projects that inherit assets, business premises, and business lines of the old enterprises).

New projects of investment eligible for tax incentives as prescribed in Article 15 and Article 16 hereof must be granted investment licenses or certificates of investment by competent

authorities, or permission for investment is granted as prescribed by regulations of law on investment.”

19. Clause 6 is added to Article 19 as follows:

“6. Any PSI enterprise originated from conversion of business type as prescribed by law that meets PSI requirements according to the Prime Minister’s Decision shall be eligible for tax incentives similarly to a new project of investment from the date completion of conversion if such enterprise did not receive corporate income tax incentives before conversion.”

20. Clause 2 of Article 20 is amended as follows:

“2. Any enterprise having a project of investment shall be eligible for concessional corporate income tax in accordance with regulations of law on corporate income tax from the issuance date of the license or certificate of investment as prescribed by regulations of law on investment. Where amendments to regulations of law on corporate income tax are made and an enterprise meets requirements for tax incentives prescribed by new regulations, such enterprise may decide whether to apply the old or new regulations on concessional tax rate, duration of tax exemption/reduction for the remaining period from the day on which new regulations come into force.

a) Any enterprise whose project of investment is still eligible for corporate income tax incentives at the end of the tax year 2013, even if such project of investment has been issued with a investment license, certificate of investment, or Certificate of Business registration (in case the domestic project is associated with establishment of a new enterprise whose capital is below VND 15 billion without conditional business lines) but does not enjoy such incentives as prescribed by legislative documents on corporate income tax before this Decree takes effect, such enterprise shall enjoy incentives for the remaining period in accordance with such legislative documents. The enterprise shall keep having incentives for expansion investment or new investment, whichever is in effect; in case the incentive in this Decree is more favourable than the current incentive (even if the enterprise eligible for such incentive but is not provided with it), the enterprise may switch over to receive the incentive in this Decree for the remaining period.

b) Any enterprise that have a project of expansion licensed by a competent authority or in progress during 2009 –2013, and conditions for tax incentives prescribed in the Law No. 32/2013/QH13 are satisfied up to the end of the tax year 2014, the enterprise shall be provided with tax incentives for expansion investment as prescribed in this Decree for the remaining period starting from the tax year 2015.

c) Any enterprise executing projects of investment in industrial parks during 2009 2013 shall be provided with tax incentives in accordance with the Law No. 32/2013/QH13 for the remaining period starting from the tax year 2015.

d) Any enterprise having projects of investment in an administrative division that was not eligible for tax incentives before January 01, 2015 (industrial parks, economic zone, hi-tech

zones, and other areas) and is now eligible for tax incentives as prescribed in this Decree shall be provided with tax incentives for the remaining period starting from the tax year 2015.

dd) Any enterprise having project of investment in an administrative division that is made eligible for tax incentives after January 01, 2015 shall be provided with tax incentives for the remaining period starting from the conversion date.

e) Any enterprise having a project of investment that applies concessional tax at 20% as prescribed in Clause 3 Article 15 of this Decree up to the end of the tax year 2015, then such enterprise may apply 17% tax for the remaining period starting from January 01, 2016.

The Ministry of Finance shall provide guidance on determination of remaining period of tax incentives starting from effective dates of legislative documents on foreign investment in Vietnam, promotions of domestic investment, and corporate income tax that are promulgated before this Decree comes into force.

Article 2. Amendments to Decree No. 65/2013/NĐ-CP dated June 27, 2013 on guidelines for the Law on Personal income tax and the Law on Amendments to the Law on Personal income tax, Article 3 of Decree No. 91/2014/NĐ-CP dated October 01, 2014 on amendments to Decrees on taxation:

1. Clause 1 of Article 3 is amended as follows:

“1. Incomes from business include:

a) Incomes from manufacturing, trading of goods, services as prescribed by law. This regulation only applies to incomes from agricultural, forestry, salt production, fisheries if the conditions for tax exemption are not satisfied.

b) Incomes from independent practice of individuals having licenses or practising certificates as prescribed by law.

Incomes from business mentioned in this Clause do not include incomes of individual entrepreneurs whose revenues are VND 100 million or less.”

2. Point dd Clause 2 of Article 3 is amended as follows:

“dd) Benefits in cash or in kind in addition to salaries/remunerations paid by the employer to which the taxpayer is entitled in any shape or form:

- Payment for housing, electricity and water supply, associated services (if any), not including benefits of housing built by the employer to provide for employees at industrial parks or housing built by the employee at an economic zone, disadvantaged area or extremely disadvantaged area to provide for employees.

- The employer's payment for life insurance and voluntary insurance with accumulated premiums, payment for voluntary pension insurance or contribution to Voluntary pension fund for employees.

- Membership fees and payments for other services serving personal needs such as: healthcare, entertainment, sports, beauty care.

- Other benefits prescribed by law.”

3. Point b Clause 2 of Article 3 is amended as follows:

“b) Allowances, benefits, except for:

- Monthly and lump sum allowances, benefits for meritorious contributors prescribed by law;

- Monthly benefits and lump sum benefits for participants in protection of the country, people performing international tasks, young volunteers who have fulfilled their duties;

- National defense and security allowances; benefits for the servicemen;

- Allowances for toxic, dangerous jobs or workplaces with toxic, dangerous factors;

- Attraction allowances, region-based allowances;

- Benefits for unexpected difficulties, benefits for occupational accidents, occupational diseases, lump sum benefits upon delivery or adoption, benefits for decline in working capacity; lump sum pension, monthly death benefits, redundancy pay, severance pay, unemployment benefits, and other benefits prescribed by the Labor Code and the Law on Social insurance.

- Benefits for beneficiaries of social protection defined by law;

- Seniority allowances for senior officers;

- Lump sum benefits for individuals sent by their employers to extremely disadvantaged areas; lump sum benefits for officials whose tasks involve sovereignty over territorial sea and islands. Lump sum benefits for foreigners who move to reside in Vietnam, Vietnamese citizens working overseas, Vietnamese citizens who resided overseas and go back to work in Vietnam ;

- Allowances for health workers of villages;

- Vocational allowances.

Allowances and benefits that are not included in taxable income must be specified by competent authorities.”

4. Clause 3 of Article 3 is amended as follows:

“3. Incomes from capital investment, including:

a) Loan interest;

b) Share profits;

c) Incomes from other forms of capital investment, including capital contribution in the form of commodities, reputation, land use rights, inventions; except for incomes from Government bond profits, incomes after payment of corporate income tax of private companies and single-member limited liability companies under the ownership of individuals.”

5. Point c Clause 6 of Article 3 is amended as follows:

“c) Betting prizes.”

6. Clause 15 and Clause 16 are added to Article 4 as follows:

“15. Income from salaries/remunerations of Vietnamese crewmembers employed by foreign or Vietnamese international shipping companies;

16. Incomes of individuals being ship owners, individuals entitled to use fishing ships, and crewmembers from provision of goods/services directly serving offshore fishing.”

7. Article 6 is amended as follows:

“Article 6. Taxes on incomes from business

1. Individual entrepreneurs shall pay personal income tax on revenues according to the rates applied to each business line. An individual entrepreneur engaged in multiple business lines shall declare and calculate tax according to the rates applied to each of such business lines. If the individual entrepreneur fails to declare tax or fails to properly declare tax, the tax authority shall impose tax in accordance with regulations of law on tax administration.

2. Taxable revenue from business is the total amount of revenue from goods sales, processing, commission, payments for provision of goods/services earned during the tax period. In some cases, taxable revenue is determined as follows:

a) Taxable revenue from goods paid in installments is the lump sum payment for the goods exclusive of interest;

b) Taxable revenue from goods/services used for the purpose of exchange or giving is the selling prices of the same or equivalent types of goods/services at the time of exchange or giving;

c) Taxable revenue from good processing includes remuneration, payment for fuel, machines, ancillary materials, and other costs serving goods processing;

d) Taxable revenue from asset leasing is the periodic rents paid by lessees under lease contracts. If the lessee pays rent for many years in advance, revenue for calculation of taxable income shall be the lump sum payment;

dd) Taxable revenues in other cases shall be specified by the Ministry of Finance.

3. Determination of incomes from business:

a) Taxable revenue of an individual entrepreneur is flat revenue which is kept unchanged for 01 year. In case an inspection proves that the taxable revenue varies by 50% or more, the tax authority shall re-determine the flat revenue according to regulations of law on tax administration. The new revenue shall apply to the remaining period of the tax year.

b) Taxable revenue of an individual entrepreneur shall be determined in accordance with regulations of law on tax administration based on results of investigation, survey, inspection, and the practical expenditures on generation of the individual's revenue.

The Ministry of Finance shall develop a risk management database for individual entrepreneurs that is practical and meets management requirements.

4. Tax on income from revenue from each business line is specified below:

a) Distribution, provision of goods: 0.5%.

b) Services, construction services exclusive of building materials: 2%.

Asset lease, insurance brokerage, lottery brokerage, multi-level marketing: 5%.

c) Manufacturing, transport, services associated with goods, construction services inclusive of building materials: 1.5%.

d) Other business operations: 1%.

5. Any individual entrepreneur that regularly employs 10 employees or more must establish an enterprise as prescribed by Company law, comply with regulations on invoicing, declare and pay tax in accordance with regulations of law on corporate income tax. If an enterprise is yet to be established, the tax authority shall impose tax in accordance with regulations of law on tax administration.”

8. Article 11 is amended as follows:

“Article 11. Taxes on incomes from salaries/remunerations

1. Taxable income from salaries, remuneration shall be determined in accordance with Clause 2 Article 3 of this Decree.

2. Taxable income from salaries/remunerations shall be determined when the employer pays salary/remuneration to the taxpayer, or when the taxpayer receives such income.

In case the employer buys life insurance for his/her employees (except for voluntary pension insurance), other voluntary insurance with accumulated premiums from an insurer that is established and operating within Vietnam's law, the employee is not required to include it to taxable income when insurance is bought. When the contract expires, the insurer shall deduct 10% tax from the accumulated premium paid by the employer for the employee starting from July 01, 2013.

In case the employer buys life insurance for his/her employees (except for voluntary pension insurance), other voluntary insurance with accumulated premiums from an insurer that is not established and operating within Vietnam's law but permitted to sell insurance in Vietnam, the employer shall deduct 10% tax from the insurance premium that is paid before paying the income to the employee.

3. Taxable income from salaries/remunerations shall equal taxable income minus (-) the following deductions:

a) Payments for social insurance, health insurance, unemployment insurance, professional liability insurance with regard to some business lines that require purchase of compulsory insurance, voluntary pension fund, purchase of voluntary pension insurance.

Not more than 01 million per month of contribution to voluntary pension fund, payment for voluntary pension insurance shall be deducted from income when determining assessable income prescribed in this Clause, including the amount paid by the employer and the amount paid by the employee himself/herself (if any).

In case an individual who resides in Vietnam and works overseas earns income from business, salary/remuneration overseas, and has bought compulsory insurance as required in the host country such as social insurance, health insurance, unemployment insurance, professional liability insurance, the payments for such insurance may be deducted from taxable income when determining income from business, salary/remuneration;

b) Family deductions prescribed in Article 12 of this Decree;

c) Contribution to charities, humanity funds, scholarship funds prescribed in Article 13 of this Decree”.

9. Article 16 is amended as follows:

“Article 16. Assessable income from securities transfer

1. Assessable income from securities transfer is the price of each transfer.

2. Securities sale price is determined as follows:

a) Sale price of securities of public companies traded at a Stock Exchange is the price applied at the Stock Exchange;

b) Sale price of securities other than those mentioned in Point a of this Clause is the price written on transfer contract or practical transfer price or book value of the transferor when the latest financial statement is made before the time of transfer”.

10. Clause 2 of Article 17 is amended as follows:

“2. Tax on income from securities transfer is 0.1% of the sale price of each transfer”.

11. Article 18 is amended as follows:

“Article 18. Assessable income from real estate transfer

1. Assessable income is the price of each transfer.

2. The price of real estate transfer is the price written on the transfer contract at the time of transfer.

a) If the land price is not written on the transfer contract or it is lower than the price imposed by the People’s Committee of the province, the price imposed by the People’s Committee of the province at the time of transfer shall apply in accordance with regulations of law on land.

b) In case of transferring a house on land, the value of the house, infrastructure and architecture on the piece of land shall be determined according to the price according to which registration fee is calculated as decided by the People’s Committee of the province. If the price according to registration fee is calculated is not decided by the People’s Committee of the province, regulations of the Ministry of Construction on classification of houses, civil construction standards and norms, and remaining value of constructions on land.

Transfer price of off-plan constructions shall be determined according to the ratio of capital contribution to total contract value multiplied by (x) the price according to which registration fee is calculated decided by the People’s Committee of the province. In case the People’s Committee of the province does not decide such price, the construction investment rates announced by the Ministry of Construction which is applicable at the time of transfer shall apply.

c) In case of sublet in which the sublet price on the contract is lower than the price imposed by the People’s Committee of the province at that time, the sublet price shall comply with the price imposed by the People’s Committee of the province.

3. Time for calculating tax on real estate transfer:

a) If the transfer contract does not state that the buyer shall pay tax on behalf of the seller, the time for calculating tax is the effective date of the transfer contract as prescribed by law.

a) If the transfer contract states that the buyer shall pay tax on behalf of the seller, the time for calculating tax is time of commencement of procedures for registration of right to ownership and right to enjoyment of real estate.”

12. Article 22 is amended as follows:

“Article 22. Tax rates

“The rate of tax on income from real estate transfer is 2% of the transfer price”.

13. Point d Clause 2 of Article 23 is amended as follows:

“d) With regard to other assets: depending on the price according to which registration fee of the asset or an equivalent asset is calculated (if any). In case an individual receives inheritance or gift being an imported asset and has to pay taxes pertaining to the import, the asset value being the basis for tax calculation shall be the price according to which registration fee is calculated at the time of registering the ownership minus (-) the taxes paid during import stage.”

14. Article 26 is amended as follows:

“Article 26. Assessable income from prize winning and time for calculation of assessable income

Assessable income from prize winning and time for calculation of assessable income is prescribed in Article 15 of the Law on Personal income tax. The prize-awarding organization shall deduct personal income from the prize before awarding the prize to the winner.”

15. Clause 5 of Article 30 is amended as follows:

“5. Annual tax declaration

Income payers, residents earning incomes from salaries/remunerations shall make annual tax statements every year, except for the following cases:

a) The tax payable by the individual is smaller than the tax temporarily paid every quarter without a request for tax refund or offsetting against tax of the next period;

b) The individual has irregular incomes from other places in addition to the salary/remuneration which is regularly received at a unit, the monthly average irregular income in the year does not exceed 10 million and tax has been deducted at source by the payer, and the individual does not wish to make an annual tax declaration.

c) Part of the individual’s income is used by the employer to buy life insurance or other voluntary insurance with accumulated premiums, and the employer or insurer has deducted personal income tax at 10% of the insurance premium paid by the employer as prescribed in Article 11 of this Decree.”

16. Article 31 is amended as follows:

“Article 31. Responsibility to deduct, declare tax, publish information of income payers, organizations to which capital is transferred by individuals, securities depositories, securities issuers, Vietnamese organizations signing contracts to buy services from foreign contractors who do not operate in Vietnam

1. The income payer shall deduct tax when paying incomes to individuals as follows:

a) With regard to salaries/remunerations of individuals who have employment contracts for 03 months or more: Every month, the income payer shall deduct tax of each individual according to their monthly assessable income and the tax schedule; calculate provisional family deduction according to the taxpayer's declaration, and shall not take legal responsibility for the declaration of provisional family deductions. The income payer shall declare tax and pay tax to state budget in accordance with Clause 1, Clause 2 Article 30 of this Decree, and regulations of law on tax administration.

b) With regards to remunerations and other payments for individuals with employment contract shorter than 03 months or without employment contract: the income payer shall provisionally deduct tax at 10% of the income paid to the individual. The individuals who incur provisional tax, which is deducted from their income, are provisionally not required to declare tax monthly.

The Ministry of Finance shall specify the incomes being basis for provisional tax deduction at the rate prescribed in this Clause.

c) Before paying insurance payment or incomes to individuals, the insurer or employer is responsible for deducting personal income tax in accordance with Article 11 of this Decree if the employer buys life insurance or other voluntary insurance with accumulated premiums for individuals.

d) Lottery companies, insurers, multi-level marketing enterprises paying commission of more than VND 100 million per year to individuals being lottery agents, insurance agents, multi-level marketing agents shall deduct personal income tax before paying incomes to such individuals.

dd) Any enterprise or business organization that leases houses or assets from an individual whose total revenue is more than VND 100 million/year must deduct 5% from the rent before paying the individual and pay tax to state budget if the lease contract stipulates that the lessee is the tax payer.

2. Securities companies, commercial banks where individuals deposit their securities, asset management companies shall deduct tax on securities transfer at 0.1% of the price of each sale of securities.

3. The enterprise to which the individual's capital is transferred shall request the individual to provide documents proving full payment of tax on the transferred capital before initiate procedures for changing the list of capital contributors or the list of shareholders. In case an

enterprise changes the list of capital contributors or shareholders upon capital transfer without documents proving procedures the capital transferor has fulfilled his/her tax liability, the enterprise to which capital is transferred shall pay tax instead of such individual.

4. Where an organization established and operated in accordance with Vietnam's law (hereinafter referred to as Vietnamese party) signs a contract to buy services from a foreign contractor who sign employment contract with foreign workers in Vietnam, the Vietnamese party is responsible for notifying the foreign contractor of the foreign workers' personal income tax and responsibility to provide the Vietnamese party with information about foreign workers, including: a list of foreign workers, their nationalities, passport numbers, working durations, jobs, incomes. The Vietnamese entity shall provide such information for the tax authority at least 07 days before the day on which the foreign workers start to work in Vietnam."

Article 3. Amendments to Decree No. 209/2013/NĐ-CP dated December 18, 2013 on guidelines for the Law on Value-added tax, Article 2 of Decree No. 91/2014/NĐ-CP dated October 01, 2014 on amendments to Decrees on taxation:

1. Clause 1b and Clause 1c are added to Article 3 as follows:

"1b. Fertilizers, feeds for livestock, poultry, fish, and other animals, whether or not processed, such as: mash, cake of various type, fish meal, bone meal, shrimp meal, and other feeds for livestock, poultry, fish, and other animals, animal feed additives (such as premix, active ingredients, and carriers).

The Ministry of Finance shall take charge and cooperate with the Ministry of Agriculture and Rural Development in providing guidance on feeds for livestock, poultry, fish, and other animals, and animal feed additives that are not subject to VAT as prescribed in this Clause.

1c. Offshore fishing ships; machinery and equipment serving agriculture, including: tractor; harrowing machine; milling machine; sowing machine; rootdozer; field leveling device; seeding machine; transplanter; sugarcane planting machine; rice-sowing machine; tiller, cultipacker, fertilizer spreader, pesticide sprayers; machine for harvesting rice, corn, sugarcane, coffee, cotton; machine for harvesting tubers, fruits, roots; tea-cutting machine, tea-picking machines; threshing machine; corn peeling machine; soybean crusher; peanut huller; coffee huller, equipment for preparing coffee, wet rice; dryer for agricultural products (rice, corn, coffee, pepper, cashew nut...), and aquaculture products; machine for collecting, loading sugarcane, straw on the field; machine for egg incubating and hatching; forage harvester; straw, grass baler; milking machine, and other specialized machines.

The Ministry of Finance shall take charge and cooperate with the Ministry of Agriculture and Rural Development in providing guidance on agricultural machines that are not subject to VAT as prescribed in this Clause."

2. Point a Clause 2 of Article 3 is amended as follows:

"a) Credit extension services include:

- Loan grant;
- Discounted and rediscounted transfer of negotiable instruments and other valuable papers;
- Guarantee;
- finance lease;
- Credit card issuance;
- Domestic and international factoring;
- Selling collateral, including the case in which the borrower sells the collateral themselves with authorization of the lender in order to repay secured loans. In case the owner of collateral defaults on the debt and has to transfer the collateral to the credit institution for settlement of the loan as prescribed by law, it is not required to issue a VAT invoice.
- Provision of credit information prescribed by the Law on State bank;
- Other types of credit extension prescribed by law.”

3. Point a Clause 3 of Article 4 is amended as follows:

“a) Deductible land price when calculating VAT:

- In case of land allocation by the State for investment in construction of housing for sale, deductible land price includes land levy payable to the State budget (not including exempted, reduced amount) plus (+) cost of compensation and land clearance prescribed by law;
- In case of land use right auction, deductible land price is the successful bid;
- In case of land lease for construction of housing for sale, deductible land price includes land rent payable to the State budget (not including exempted, reduced amount) plus (+) cost of compensation and land clearance prescribed by law;
- In case the business establishment (transferee) receives land use right from another organization or individual, the deductible land price is the land price at the time of transfer, including the value of infrastructure (if any); the transferee must not declare or deduct input VAT on infrastructure, which is already included in the deductible value of land use right (not subject to VAT). If deductible land price does not include the value of infrastructure, the transferee may declare and deduct input VAT on infrastructure, which is not included in the deductible value of land use right. If the land price at the time of transfer is not determined, deductible land price shall be the price imposed by the People’s Committee of the province at the time of concluding the transfer contract.

In case a business establishment receives capital contribution in the form of land use right from an organization or individual, the deductible land price shall be the price written on the contribution contract. In case the transfer price of land use right is lower than the price of land contributed, the transfer price shall be deductible price;

- If a real estate company who enters into a Build – Transfer (BT) contract and pays with value of land use right, the deductible land price shall be the price at the time of conclusion of the BT contract as prescribed by law. If the price is not determined when the BT contract is signed, the land price decided by the People’s Committee of the province shall apply.”

4. Point dd Clause 1 of Article 6 is amended as follows:

“dd) Cases in which 0% VAT does not apply:

- Technology transfer, transfer of intellectual property rights to abroad;
- Overseas reinsurance services
- Overseas credit extension;
- Transfer of capital to abroad;
- Overseas investment of securities;
- Derivative financial services;
- Postal and telecommunications services;
- Export of natural resources, raw minerals prescribed in Clause 11 Article 3 of this Decree;
- Provision of goods/services for individuals without business registration in free trade zones;
- Tobacco, alcohols, beers imported then exported.”

5. Point b Clause 2 of Article 6 is amended as follows:

“b) The products mentioned in Point b Clause 2 Article 8 of the Law on Value-added:

- Ores for fertilizer production are ores used as materials for fertilizer production;
- Pesticides include plant protection drugs and other pesticides;
- Growth stimulants for animals and plants.”

6. Point b Clause 1 of Article 9 is amended as follows:

“b) With regard to input VAT on goods and services (including fixed assets) used for manufacturing/trading of both goods/services subject to tax and those not subject to tax, only input VAT on goods and services used for manufacturing/trading of goods/services subject to VAT may be deducted. The taxpayer shall separate deductible input VAT from non-deductible input VAT. If they cannot be separated, input VAT shall be deducted according to the ratio of revenue from the sale of goods/services subject to VAT to the total revenue from the sale of goods/services.

The Ministry of Finance shall take charge and cooperate with relevant Ministries in determination of total revenue from sale of goods/services as the basis for determination of VAT deduction ration prescribed in this Clause with regard to each field.

With regard to business establishments with closed manufacturing process and independent accounting system that use products not subject to VAT to manufacture goods subject to VAT, input VAT in all stages shall be deducted in full.

With regard to business establishments with projects of investment that is divided into multiple stages, including new business establishments that have closed manufacturing process and use products not subject to VAT to manufacture goods subject to VAT, if goods/services not subject to VAT are provided during infrastructural development stage, input VAT incurred during the fixed asset investment stage shall be deducted in full. Input VAT on goods/services that do not constitute fixed assets shall be deducted according to the ratio of revenue subject to VAT to the total revenue from the sale of goods/services.

With regard to business establishments with projects of investment, including new business establishments that invest in manufacturing/trading of both goods/services not subject to VAT and those subject to VAT, input VAT on fixed assets formed during the infrastructural development stage shall be temporarily deducted according to the ratio of revenue from goods/services subject to VAT to total revenue from goods/services under the business plan. The provisionally deducted tax shall be adjusted to the ratio of revenue from goods/services subject to VAT to total revenue from the sale of goods/services within the first three years from the first year in which revenue is earned.

The Ministry of Finance shall provide guidance on determination of the ratio of revenue subject to VAT to the total revenue from the sale of goods/services, temporary deduction and adjustment of input VAT prescribed in this Point.”

7. Point i1 is added to Clause 1 Article 9 as follows:

“i1) Input VAT on goods, services, fixed assets serving manufacturing of fertilizers, machinery and equipment serving agriculture, animal feeds sold domestically shall not be declared and deducted. Instead, it shall be included in deductible expense when determining income subject to corporate income tax, except for VAT on goods, services, fixed assets purchased before January 01, 2015 that satisfy conditions for deduction, tax refund, and are eligible for tax refund as prescribed in Article 10 of this Decree.”

8. Point b Clause 2 of Article 9 is amended as follows:

“b) There are proofs of non-cash payments for goods and services purchased or imported, unless the total value of each purchase or import of goods/services is below VND 20 million.

With regard to goods/services paid by installments of which the value is VND 20 million or more, the taxpayer shall declare and deduct input VAT according to the sale contracts, VAT invoices, and proof of non-cash payments. If proof of non-cash payments is not available because payment is not due according to the contract, the taxpayer may still declare and deduct input VAT.

Goods and services purchased by offsetting the value of goods and service purchased against the value of goods and service sold are considered non-cash payments. If the monetary payment made after offsetting is VND 20 million or above, tax shall only be deducted if there are proof of non-cash payments.

In case the value of goods and services are purchased from a supplier is below VND 20 million but many purchases are made in the day with the total value of VND 20 million or more tax shall only be deducted if there are proofs of non-cash payments.

9. Clause 2 of Article 10 is amended as follows:

“2. New business establishments originated projects of investment that have applied for business registration and registered for payment of VAT using credit-invoice method, or petroleum exploration and extraction projects that are still in the investment stage pending inauguration, VAT on goods and services invested shall be refunded if the investment period is 01 year or longer. If accrued VAT on goods/services purchased for investment is VND 300 million or more, VAT shall be refunded.

If a project of investment of a business establishment has been inspected and audited by a competent authority, the tax authority may use the inspection or audit result to decide the refund of VAT and shall take responsibility for such decision.”

10. Clause 5 of Article 10 is amended as follows:

“5. Business establishments paying VAT using credit-invoice method shall have VAT refunded if there is overpaid input VAT that has not been fully refunded upon ownership transfer, conversion, acquisition, consolidation, division, dissolution, bankruptcy, or shut down of the enterprise.

Business establishments that are still in the investment stage pending inauguration and have to be not dissolved, bankrupt, or shut down are not required to adjust the VAT declared, deducted, or refunded if input VAT on the primary business according to project of investment is not incurred. Guidance of the Ministry of Finance shall apply to declaration, calculation, and payment in case of transfer or a project of investment, sale of assets of the project of investment, or change of the business purpose of a project of investment.”

Article 4. Amendments to Decree No. 50/2010/NĐ-CP dated May 14, 2010 on guidelines for the Law on Severance tax:

1. Clause 8 of Article 2 is amended as follows:

"Natural water, including surface water and underground water, other than natural water used for agriculture, forestry, aquaculture, salt production, and seawater for machine cooling.

Seawater for machine cooling mentioned in herein must satisfy requirements for environmental safety, efficiency of water circulation, and economic – technical conditions.

The Ministry of Finance shall take charge and cooperate with relevant Ministries to provide guidance on seawater for machine cooling mentioned herein, which is not subject to severance tax.

2. Clause 9 of Article 2 is amended as follows:

“9. Natural edible bird’s nests, except bird’s nests obtained from investment in nesting houses meant to attract natural birds for raising and harvesting.”

3. Point c Clause 3 of Article 4 is amended as follows:

“c) With regard to extracted natural resources that are exported instead of being sold domestically, it is the customs value of the resources exclusive of export tax.

If natural resources are both sold domestically and exported:

- Sale price of the production of resources sold domestically exclusive of VAT.
- Customs value of the production of resources exported exclusive of export tax.

Customs value of extracted natural resources shall comply with regulations on customs value of exports prescribed in the Law on Customs and its guiding documents.”

4. Clause 4 of Article 4 is amended as follows:

“4. The People’s Committees of provinces shall specify the price for calculation of severance tax (hereinafter referred to as taxable price) as prescribed in Clause 2 and Point b Clause 3 of this Article. If natural resources must be processed before being sold (whether domestically or overseas), the taxable price shall depends on the custom value of processed products or the sale price of processed products exclusive of export tax (if any) and related costs from the processing stage to export stage, or from the processing stage to the selling stage on the domestic market.

The taxable price shall be the basis for determining the taxable production of corresponding resources. The taxable production of resources shall apply to the stage in which taxable price is determined.”

5. Clause 5 of Article 4 is amended as follows:

“5. The Ministry of Finance shall:

- a) Provide guidance on determination of taxable prices prescribed in Point a and Point d Clause 3 of this Article and other specific cases;
- b) Take charge and cooperate with relevant agencies in imposing the taxable price brackets for groups/types of natural resources with similar physical, chemical properties;
- c) Provide guidance on deductible production/processing cost for the People’s Committees of provinces to determine taxable prices prescribed in Clause 4 of this Article;
- d) Develop a taxable price database to apply nationwide.”

Article 5. Amendments to Decree No. 83/2013/NĐ-CP dated July 22, 2013 on guidelines for the Law on Tax administration and the Law on amendments to the Law on Tax administration, Article 4 of Decree No. 91/2014/NĐ-CP on amendments to Decrees on taxation:

1. Clause 4 is added to Article 9 as follows:

“4. According to the conditions of tax authorities, customs authorities, and relevant regulatory bodies, the Ministry of Finance shall specify the cases in which taxpayers are not required to submit the documents enclosed with tax declarations, applications for tax refund, and other tax documents that regulatory bodies already have.”

2. Point a Clause 2 Article 11 is amended as follows:

“a) Monthly, quarterly VAT declaration is the monthly quarterly VAT declaration form.”

3. Point a Clause 2 Article 13 is amended as follows:

“a) The monthly special excise duty declaration is the monthly special excise duty declaration form”

4. Point a Clause 2 Article 15 is amended as follows:

“a) The monthly severance tax declaration is the monthly severance tax declaration form”

5. Clause 2 Article 23 is amended as follows:

“2. Business individuals and business households that pay fixed taxes shall declare and pay VAT, special excise duty, severance tax, environmental protection tax, personal income tax, and environmental protection fees. If the business household or individual that pay fixed taxes earns

revenues that are not subject to VAT, personal income tax according to the Law on Value-added tax and the Law on Personal income tax, then VAT and personal income tax shall not be paid.”

6. Article 26a is added as follows:

“Article 26a. Currencies for paying tax, determination of revenues, expenses, taxable prices, and taxes paid to state budget

1. Taxpayers shall pay taxes and other amounts to state budget in VND, except for the cases in which foreign currencies are permitted by law.

2. In case revenue, expense, taxable prices are in foreign currencies or the taxpayer has to make payments in foreign currencies but permitted to pay tax in VND as prescribed by law, foreign currencies shall be converted into VND according to applicable exchange rate. The Ministry of Finance shall provide guidance on conversion of foreign currencies into VND as prescribed in this Clause.

3. With regard to exports and imports, exchange rates shall comply with Clause 3 Article 21 of the Government's Decree No. 08/2015/NĐ-CP dated January 21, 2015 on guidelines for the Law on Customs.

7. Article 28a is added as follows:

“Article 28a. Actions against late payment of tax

If a taxpayer pays tax behind schedule, behind the extended deadline, or behind a deadline written on the tax authority’s notification/decision, such taxpayer must pay tax fully and late payment interest at 0.05% per day on the amount paid behind schedule. With regard to deficit of tax found during inspection or found by the taxpayer from January 01, 2015, late payment interest shall be paid at 0.05% per day on the amount paid behind schedule.

In case a taxpayer provides goods/services covered by state budget but is not paid, and thus fails to pay tax on schedule, tax enforcement shall not be carried out and late payment interest on tax debt shall not be charged. Nevertheless, the amount of tax paid behind schedule must not exceed the amount delayed by state budget.

8. Article 31 is amended as follows:

“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 taxpayer is not able to pay tax on schedule because the production or preservation cycle of materials and supplies imported to produce exports is longer than 275 days, or the customer terminates the contract or extends the delivery deadline;

d) Other cases of 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 mentioned in Point c Clause 1 of this Article are the outstanding tax, late payment interest, and fines corresponding to the amount of materials and supplies imported to produce exports that are not exported within 275 days;

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 and Point c 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, and Point 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 mentioned in Points a and Point b 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 mentioned in Points a, Point b, and Point c 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.”

9. Clause 2 Article 39 is amended as follows:

“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 fully pay tax and late payment interest as committed.

b) 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.

10. Article 40 is amended as follows:

“Article 40. Certification of discharge of tax liabilities

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. The immigration agencies shall suspend the exit of an individual when receiving a written notice or email from the tax authority about any unfulfilled tax liability.

2. Tax authorities shall certify the discharge of tax liabilities in writing at the request of taxpayers, except for the case in Clause 1 of this Article.

11. Point b Clause 3 Article 41 is amended as follows:

“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 are 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 the tax authority, in addition to the tax refund, the taxpayer shall also receive an interest on amount refunded behind schedule and the delay period; the interest shall be calculated in accordance with Point a and Point b Clause 2 Article 30 of this Decree.”

12. Clause 1 Article 48 is amended as follows:

“1. Taxpayers being business organizations shall use electronic services provided by tax authorities (tax registration, tax declaration, tax payment, information access and sending), except for special cases prescribed by the Ministry of Finance.

Taxpayers (both organizations and individuals) whose business lines are restaurant, hotel, supermarket, and some other goods and services using cash register system or shopkeeper software system for payment shall connect with tax authorities in order to send information to tax authorities according to tax authorities’ roadmap.

Taxpayers (both organizations and individuals) whose business lines face high tax risk shall make electronic invoices and electrically send information on invoices to tax authorities to receive invoice authentication codes from tax authorities. The Ministry of Finance shall specify the cases in which electronic invoices with authentication codes of tax authorities must be used.”

Article 6. Effect and responsibility for implementation

1. This Decree takes effect from the effective date of the Law on Amendments to tax laws dated November 26, 2014.

2. Regulations on exchange rates when determining revenues, expenses, taxable prices, assessable incomes, taxable incomes in Article 7 and Article 8 of the Government's Decree No. 87/2010/NĐ-CP dated August 13, 2010, Clause 9 Article 4 of Government's Decree No. 26/2009/NĐ-CP dated March 16, 2009, and Clause 3 Article 1 of Government's Decree No. 113/2011/NĐ-CP dated December 08, 2011 are annulled.

3. Point n Clause 2 Article 3 and Point g Clause 2 Article 9 of the Government's Decree No. 218/2013/NĐ-CP dated December 26, 2013 are annulled.

4. Articles 7, 8, 9, 10, 19, 20, 21 and regulations on incomes from business in Articles 12, 13, and 14 of the Government's Decree No. 65/2013/NĐ-CP dated June 27, 2013 are annulled.

5. Point c Clause 2 Article 6 of the Government's Decree No. 209/2013/NĐ-CP dated December 18, 2013 is annulled.

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

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

**FOR THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Tan Dung

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**THE NATIONAL
ASSEMBLY**

Law No. 71/2014/QH13

**SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness**

Hanoi, November 26, 2014

LAW

AMENDMENTS TO TAX LAWS

Pursuant to Constitution of Socialist Republic of Vietnam;

The National Assembly promulgates the Law on amendments to The Law on Corporate income tax No. 14/2008/QH12, some Articles of which are amended in Law No. 32/2013/QH13; the Law on Personal income tax No. 04/2007/QH12, some Articles of which are amended in Law No. 26/2012/QH13; the Law on value-added tax No. 13/2008/QH12, some Articles of which are amended in Law No. 31/2013/QH13; the Law on special excise duty No. 27/2008/QH12; the Law on Severance tax No. 45/2009/QH12; the Law on Tax administration No. 78/2006/QH11, some Articles of which are amended in Law No. 21/2012/QH13; the Law on Export and import tax No. 45/2005/QH11; and the Law on Customs No. 54/2013/QH13.

Article 1.

Amendments on some Articles of the Law on Corporate income tax No. 14/2008/QH12, some Articles of which are amended in Law No. 32/2013/QH13.

1. Clause 2 Article 3 is amended as follows:

“2. Other incomes include: income from transfer of capital, transfer of the right to capital contribution; income from real estate transfer, transfer of construction projects, transfer of the right to participate in construction projects, transfer of the right to mineral exploration, mineral extraction, and mineral processing; income from the right to enjoyment of property, right to ownership of property, including income from intellectual property rights defined by law; income from transfer, lease, liquidation of assets, including valuable papers; income from deposit interest, loan interest, sale of foreign exchange; collection of debts that were cancelled; receipts from debts without creditors; incomes from business operation in previous years that were committed, and other incomes.

With regard to Vietnamese companies making investments in the countries with which Vietnam have Double Taxation Agreement and transfer incomes exclusive of corporate income tax paid overseas to Vietnam, regulations of such Double Taxation Agreements shall apply. If investments are made in countries with which Vietnam has not had Double Taxation Agreements, and if corporate income tax incurred in such countries is lower than that imposed by the Law on Corporate income tax of Vietnam, the tax difference shall be paid.

2. Clause 1 Article 4 is amended as follows:

“1. Income from farming, breeding, cultivation and processing of agriculture and aquaculture products, salt production of cooperatives; income of cooperatives engaged in agriculture, forestry, aquaculture, or salt production in disadvantaged areas or extremely disadvantaged areas; income of companies from farming, breeding, cultivation and processing of agriculture and aquaculture products in disadvantaged areas; income from marine fisheries.”

3. Point a Clause 1 Article 9 is amended as follows:

“a) Actual expenditures on business operation of the company; expenditures on vocational education; expenditures on the company’s national defense and security duties as prescribed by law;”.

4. Point m Clause 2 Article 9 is annulled.

5. Point dd and Point e are added to Clause 1 Article 13 as follows:

“dd) Income of a company from execution of a project of investment in manufacturing of products on the List of ancillary products given priority and satisfying one of the following conditions:

- Ancillary products supporting high-technology defined in the Law on High-technology;
- Ancillary products serving the manufacturing of the following industries: textile – garment; leather - footwear; electronic - IT; automobile manufacturing & assembling; mechanical engineering, provided they cannot be manufactured in Vietnam up to January 01, 2015, or can be manufactured in Vietnam and satisfy technical standards established by EU or the equivalent.

The government shall compile the List of ancillary products given priority mentioned in this Point.

e) Income of a company from execution of a project of investment in manufacturing, except for manufacturing of products subject to special excise tax and mineral extraction, the capital investment in which is not smaller than VND 12,000 billion, the technologies applied are assessed in accordance with the Law on High-technology, the Law on Science and Technology, and the registered capital is disbursed within 05 years from the day on which the investment is permitted as prescribed by regulations of law on investment."

6. Point d Clause 2 Article 13 is amended as follows:

“d) Income from a company from: planting, cultivating, protecting forests; cultivating, processing agriculture and aquaculture products in a disadvantaged area; producing forestry products in a disadvantaged area; producing, propagating, cross-breeding plants and animals; producing and refining salt, except for the types of salt defined in Clause 1 Article 4 of this Law; investment in preservation of harvested farm produce, preservation of agriculture products, aquaculture products, and foods;”

7. Clause 3a is added to Clause 1 Article 13 as follows:

“3a. 15% tax is applied to: income of the company from farming, breeding, processing of agriculture and aquaculture products in an area other than disadvantaged areas or particularly disadvantaged areas.”

8. Clause 5 Article 13 is amended as follows:

“5. Extension of preferential tax period:

a) With regard to any special project that needs to attract substantial investment and requires high technologies, the preferential tax period may be extended for up to 15 years.

b) If a project mentioned in Point e Clause 1 of this Article satisfy one of the following conditions:

- The products are able to go into global competition and generate a revenue of more than VND 20,000 billion per year after not more than five years from the first year in which revenue is earned from the project;
- More than 6,000 employees are hired;
- The project of investment involves economic – technical infrastructure, including: investment in water plants, power plants, water supply and drainage systems, bridges, roads, railroad, airports, seaports, river ports, train stations, new energies, clean energies, energy-saving industry, oil refinery.

The Prime Minister shall decide the extension of preferential tax period mentioned in this Point, provided the extension is not longer than 15 years."

9. Clause 3 Article 2 of the Law No. 32/2013/QH13 is amended as follows:

"3. Any company having a project of investment eligible for enterprise income tax incentives according to regulations of law on corporate income tax at the time when the license for investment or certificate of investment is granted. If regulations of law on corporate income tax are changed and the company still satisfies the conditions for concessional tax according to new regulations, it may choose between preferential tax rates and duration of tax exemption/reduction prescribed by the old or new regulations for the remaining period.

At the end of the tax year 2015, if the project of the company is applying the preferential tax rate of 20% prescribed in Clause 3 Article 13 of the Law on Corporate income tax No. 14/2008/QH12, which is amended in Law No. 32/2013/QH13, the company may apply 17% tax for the remaining period from January 01, 2016."

Article 2

Amendments to some Articles of the Law on Corporate income tax, some Articles of which are amended in Law No. 26/2012/QH13.

1. Clause 1 Article 3 is amended as follows:

"1. Incomes from business include:

- a) Incomes from manufacturing, sale of goods or services;
- b) Income from freelance works of individuals having licenses or practicing certificates as prescribed by law.

A sole trader's income of VND 100 million per year or less is not considered income from business prescribed in this Clause."

2. Point c Clause 6 Article 3 is amended as follows:

"c) Prizes won from betting;"

3. Clause 15 and Clause 16 are added to Article 4 as follows:

"15. Income from salaries, remunerations of Vietnamese crewmembers working for foreign shipping companies or Vietnamese shipping companies that provide international transport services.

16. Incomes from provision of goods/services directly serving offshore fishing earned by individuals being ship owners, individuals having the right to use ships, and incomes of crewmembers on ships.”.

4. Article 10 is amended as follows:

“Article 10. Tax incurred by sole traders

1. Sole traders shall pay personal income tax directly on their incomes; tax rates vary depending on the fields, works of the individuals.

2. Revenue means the amounts earned from goods sale, goods processing, commission, payments for service provision during the tax period from manufacturing, sale of goods/services.

If a sole trader fails to determine his/her income, the competent tax authority shall calculate the income in accordance with regulations of law on tax administration.

3. Tax rates:

a) Distribution, supply of goods: 0.5%;

b) Service provision, construction exclusive of building materials: 2%.

Asset lease, insurance brokerage, lottery brokerage, multi-level marketing brokerage: 5%;

c) Manufacturing, transport, services associated with goods, construction inclusive of building materials: 1.5%.

d) Other business activities: 1%.”

5. Article 13 is amended as follows:

“Article 13. Taxable income from capital transfer

1. Taxable income from capital transfer equals (=) selling price minus (-) buying price and other reasonable costs related to the generation of income from capital transfer.

Taxable income from securities transfer is the price of each transfer.

2. Taxable income from capital transfer shall be determined when the transfer is completed as prescribed by law.

The government shall elaborate this Article.”.

6. Article 14 is amended as follows:

“Article 14. Taxable income from real estate transfer

1. Taxable income from real estate transfer is the price of each transfer.

2. The government shall decide the principles and methods for determination of real estate transfer prices.

3. Taxable income from real estate transfer shall be determined when the transfer contract takes effect as prescribed by law.

7. Clause 2 Article 23 is amended as follows:

“2. Tax schedule:

Assessable income	Tax rate (%)
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a) Income from capital investment	5
b) Income from royalties, franchise	5
c) Income from prize winning	10
d) Income from inheritance, gifts	10
dd) Income from capital transfer prescribed in Clause 1 of this Law	20
Income from securities transfer prescribed in Clause 1 Article 13 of this Law	0.1
e) Income from real estate transfer	2

Article 3

Amendments to some Articles of the Law on Value-added tax No. 13/2008/QH12, some Articles of which are amended in Law No. 31/2013/QH13.

1. Clause 3a is added to Clause 3 Article 5 as follows:

“3a. Fertilizers, specialized machinery and equipment serving agricultural production; offshore fishing vessels; feed for cattle, poultry, and other animals;”.

2. Point b Clause 2 Article 8 is amended as follows:

“b) Ores for production of fertilizers; pesticides, and growth stimulants for animals, plants;”.

3. Point c and Point k Clause 2 Article 8 is annulled.

Article 4. Amendments to the Law on Severance tax No. 45/2009/QH12

1. Clause 7 Article 2 is amended as follows:

“7. Natural water, including surface water and underground water, except for natural water used for agriculture, forestry, aquaculture, and salt production.”.

2. Clause 5 Article 9 is amended as follows:

“5. Tax on natural water used by households and individuals for their everyday life is exempt.”.

Article 5

Amendments to some Articles of the Law on Tax administration No. 78/2006/QH11, some Articles of which are amended in Law No. 21/2012/QH13.

1. Clause 1, Clause 1a, and Clause 6 Article 31 is amended as follows:

“1. Taxes that must be declared and paid monthly shall be declared using monthly tax declarations;

1a. Taxes that must be declared and paid quarterly shall be declared using quarterly tax declarations;

“6. The Government shall specify taxes that must be declared monthly, quarterly, annually, and whenever tax is incurred; criteria for determination of taxpayers eligible to declare tax monthly, and tax declarations in each case.”.

2. Article 43 is amended as follows:

“Article 43. Currencies of revenues, expenditures, taxable prices, and taxes

Taxpayers shall determine their revenues, expenditure, taxable prices, and taxes in Vietnam dong, except for the cases in which such amounts may be paid in foreign currencies as prescribed by the Government. If there are revenues, expenditure, taxable prices in foreign currencies, or amounts payable by the taxpayer in foreign currencies, but a competent authority permits payment in VND, foreign currencies shall be exchanged into VND according to the exchange rate at that time.

The Government shall elaborate this Article .”.

3. Clause 11 is added to Article 7 as follows:

“11. Depending on the actual conditions and availability of IT equipment, the Government shall decide whether or not taxpayers have to submit documents attached to the tax declaration, tax payment documents, application for tax refund, and other tax documents that regulatory already have.”.

4. Clause 1 Article 106 is amended as follows:

“1. If a taxpayer pays tax after the deadline, extended deadline, or the deadline written in the notification or tax decision issued by a tax authority, such taxpayer shall pay tax in full and a late payment interest at 0.05% per day on the tax paid behind schedule.

With regard to any taxpayer that provides products or services and gets paid by government budget, if such taxpayer fails to pay tax on schedule because no payments are made by government budget, the taxpayer shall not pay late payment interest on the outstanding tax, which is incurred before payments are made by government budget, provided such outstanding tax does not exceed the amount that is yet to be paid by government budget.”.

Article 6. Implementation

1. This Law takes effect on January 01, 2015.

2. Regulations on exchange rates when determining revenues, expenditure, taxable prices, and taxes in the documents below are annulled:

a) Article 8 and Clause 3 Article 9 of the Law on Corporate income tax No. 14/2008/QH12, some Article of which are amended in Law No. 32/2013/QH13;

b) Clause 1 Article 6 of the Law on Personal income tax No. 04/2007/QH11, some Articles of which are amended in Law No. 26/2012/QH13;

c) Clause 3 Article 7 of the Law on Value-added tax No. 13/2008/QH12, some Articles of which are amended in Law No. 31/2013/QH13;

d) Article 6 of the Law on special excise duty No. 27/2008/QH12;

dd) Clause 3 Article 9 and Article 14 of the Law on Export and import tax No. 45/2005/QH11;

e) Clause 4 Article 86 of the Law on Customs No. 54/2013/QH13.

3. Point c Clause 1 Article 49 of the Law on Tax administration No. 78/2006/QH11, some Articles of which are amended in Law No. 21/2012/QH13 is annulled.

4. Regulations on determination of tax incurred by sole traders in Clause 1 Article 19, Clause 1 Article 20, and Clause 1 Article 21 of the Law on Personal income tax No. 04/2007/QH12, some Article of which are amended in Law No. 26/2012/QH13, are annulled.

5. The Government shall elaborate Clauses and Articles mentioned above.

This Law is passed by the 13th National Assembly of Socialist Republic of Vietnam on November 26, 2014 during the 8th session.

**PRESIDENT OF THE NATIONAL
ASSEMBLY**

Nguyen Sinh Hung

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THE GOVERNMENT

No. 53/2011/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

Hanoi, July 01, 2011

DECREE

**DETAILING AND GUIDING A NUMBER OF ARTICLES OF THE LAW ON NON-
AGRICULTURAL LAND USE TAX**

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the June 17, 2010 Law on Non-Agricultural Land Use Tax;

At the proposal of the Minister of Finance,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details and guides a number of articles of the Law on Non-Agricultural Land Use Tax.

Article 2. Tax-liable objects

Objects liable to non-agricultural land use tax are defined in Article 2 of the Law on Non-Agricultural Land Use Tax, specifically as follows:

1. Residential land in rural and urban areas.
2. Non-agricultural production and business land specified in Clause 2. Article 2 of the Law on Non-Agricultural Land Use Tax. including:
 - a/ Land for construction of industrial parks, including industrial clusters, industrial parks. export-processing zones and other production and business /ones, to which a common land use regime is applied:
 - b/ Land for construction of production and business establishments, including industrial production, collage industry and handicraft businesses, service and trade establishments and other facilities in support of production and business operations (including also land for construction of production and business establishments in hi-tech parks and economic zones):
 - c/ Land for mineral mining and land used as mineral processing sites, except cases in which mineral mining activities do not affect the top soil layer or the land surface;
 - d/ Land for production of construction materials or pottery, including land used as raw materials and land used as construction material processing and production sites or sites for making pottery.
3. Non-agricultural land defined in Article 3 of this Decree which is used by organizations, households or individuals for commercial purposes.

Article 3. Objects not liable to tax

Non-agricultural land used for non-commercial purposes specified in Article 3 of the Law on Non-Agricultural Land Use Tax are not liable to tax, specifically:

1. Land used for public purposes, including:

a/ Traffic and irrigation land, including land for construction of roads, bridges, sluices, pavements, railways, airport and airfield infrastructure, including also land planned for construction of airports or airfields under phased investment projects which have been approved but not yet implemented, land for construction of water supply systems (excluding water plants), water drainage systems, irrigation work systems, dikes and dams, and land within traffic and irrigation safety corridors;

b/ Land for construction of public cultural, healthcare, education and training, physical training and sport facilities, including crèches, schools, hospitals, marketplaces, parks, flower gardens, children's recreation centers, squares, cultural works, post-cultural spots of communes, wards and townships, monuments, commemorative stelae, museums, functional rehabilitation institutions for persons with disabilities, vocational training schools, drug detoxification institutions, reformatories, dignity restoration camps and nursing homes for elderly persons and disadvantaged children;

c/ Land with historical and cultural relics or scenic places which have been ranked or placed under protection under decisions of People's Committees of provinces and centrally run cities (below referred to as provincial-level People's Committees);

d/ Land for construction of other public works, including land used for public-utility purposes in urban centers and rural residential areas; land for construction of common-utility infrastructure facilities in industrial parks, hi-tech parks and economic zones under approved plans; land for construction of power transmission lines, communication networks, petrol, oil and gas pipelines and their safety corridors; land of power stations, irrigation reservoirs and dams; land of funeral halls and crematories; land of landfills, garbage dumping grounds and waste treatment complexes approved by competent state agencies.

2. Land used by religious institutions, including land of pagodas, churches, oratories, chancels, monasteries, religious training institutions, offices of religious organizations and other religious establishments permitted by the State.

3. Land used as cemeteries and graveyards.

4. Land under rivers, canals, ditches, streams and special-use water surface;

5. Land with communal houses, temples, hermitages, clans' worship halls, including land areas for building these works and their premises;

6. Land for construction of working offices and non-business works, including;

a/ Land of working offices of state agencies, political organizations, socio-political Organizations and public non-business organizations; offices of Vietnam-based diplomatic representative missions and foreign consulates and intergovernmental international organizations entitled to privileges and immunities like foreign diplomatic representative missions in Vietnam;

b/ Land of economic, cultural, social, scientific and technological and diplomatic non-business establishments of state agencies, political organizations, socio-political organizations and public non-business organizations.

7. Land used for defense and security purposes, including:

a/ Land of barracks and army camps;

b/ Land of military bases:

c/ Land of national defense works, battlefields and other special defense and security works;

d/ Land of military stations and ports:

e/ Land of industrial and science and technology works in direct service of national defense and security:

f/ Land of warehouses of the people's armed force units;

g/ Land of firing ranges, drill grounds, weapon testing grounds and weapon disposal sites;

h/ Land of guest houses, public-duty houses, competition halls, gyms and other facilities within barracks and camps of the people's armed force units;

i/ Land of prisons, detention houses, educational institutions and reformatories managed by the Ministry of National Defense or the Ministry of Public Security:

j/ Land of other combat works and defense and security works specified by the Government.

8. Non-agricultural land for construction of works of cooperatives engaged in agricultural or forestry production, aquaculture and salt-making: land in urban areas which is used for construction of glasshouses and other buildings for farming purposes, including cases in which crops are not planted directly on land; land for construction of farms for raising livestock, poultry and other animals as permitted by law; land for construction of research and testing farms and stations in the agriculture, forestry and fishery sectors; land for construction of plant and animal nurseries: land for construction of households' and individuals' warehouses for storing farm produce, plant protection drugs, fertilizers and agricultural machines and tools.

Chapter II

TAX BASKS. TAX REGISTRATION, DECLARATION. CALCULATION AND PAYMENT AND TAX EXEMPTION AND REDUCTION

Article 4. Taxable land area

Taxable land area is the area of non-agricultural land actually used.

1. In case a taxpayer has the right to use many land plots within a province or centrally run city, the taxable land area is the total area of taxable land plots.

2. For residential land of a multi-story building with many users or a condominium, including those with areas for both dwelling and commercial purposes, the taxable land area of each organization, household or individual shall be determined to be equal to the allocation coefficient multiplied by the area of the apartment (work) used by such organizations, household or individual.

$$\text{Allocation coefficient} = \frac{\text{Construction land area of the}}{\quad}$$

applicable to a building or
condominium without
basement

building or condominium
Total area of apartments used
by organizations households
and individuals

Allocation
coefficient
applicable to a
building or
condominium with
a basement

=

Construction land area of the building or
condominium

Total area of
apartments used by
organizations,
households and
individuals (ground
sections)

+

50% of the
basement area used
by organizations,
households and
individuals

Allocation coefficient
applicable to an underground
work

=

50 x Ground land area corresponding to the
underground work

Total area of the underground work used by
organizations, households and individuals

The area of the apartment (work) used by an organization, household or individual is the floor area actually used by such organization, household or individual stated in the sale/ purchase contract or the certificate of the right to use land or own houses or assets attached to land (the certificate).

Article 5. Price of a square meter of taxable land

1. The price of a square meter of taxable land is the price of land based on the use purpose of the taxable land plot which is set by the provincial-level People's Committee and shall be kept unchanged for a 5-year period stating on January 1, 2012.
2. In case of changing taxpayers or arising any elements that lead to the change of the price of a square meter of taxable land during a stabilization period, the price of a square meter of taxable land shall be kept unchanged for the remainder of the period.
3. In case land is allocated or leased by the State and its use purposes is converted from agricultural to non-agricultural purpose or from non-agricultural production and business to residential purpose during a stabilization period, the price of a square meter of taxable land is the price of land based on its use purpose, which is set by the provincial-level People's Committees at the time of land allocation or lease or at the time of converting the land use purposes and kept unchanged for the remainder of the period.

Article 6. Residential land quotas for tax calculation

1. For residential land which is allocated from January 1. 2012. on. the residential land quota used as a basis for tax calculation is the quota set by the provincial-level People's Committee at the time of land allocation.
2. For residential land which is used before January 1, 2012, the residential land quota used as a basis for tax calculation shall be determined as follows:

a/ If, at the time of grant of a certificate, the provincial-level People's Committee already set a residential land allocation or recognition quota and the land area stated in the certificate was determined according to the residential land recognition quota, such quota shall be used as a basis for tax calculation. If the residential recognition quota is lower than the current residential land allocation quota, the latter will be used as a basis for tax calculation:

b/ If, at the time of grant of a certificate, the provincial-level People's Committee already set a residential land allocation or recognition quota and the land area stated in the certificate was determined according to the residential land allocation quota, such quota shall be used as a basis for tax calculation. If the residential land allocation quota is lower than the current residential land allocation quota, the latter will be used as a basis for tax calculation;

c/ If, at the time of grant of a certificate, the provincial-level People's Committee did not yet set a residential land allocation or recognition quota, the whole residential land area stated in the certificate will be regarded as residential land within the set quota:

d/ No residential land quota will apply to cases without certificates. When land users are granted certificates, the residential land quota used as a basis for tax calculation complies with the principles laid down at Points a, b and e of this Clause.

3. In case of changing taxpayers, the residential land quota used as a basis for tax calculation is the current residential land allocation quota set by the provincial-level People's Committee, which will be applied from the subsequent tax year, except cases of changing taxpayers due to inheritance or giving as gifts between husband and wife; natural parent and natural child; adoptive parent and adopted child; parent-in-law and son-in-law or daughter-in-law; grandparent and grand child; or between siblings. In these cases, the set residential land quota applicable to the transferor shall be used as a basis for tax calculation.

4. No residential land quota will apply to encroached or appropriated land, land used for improper purposes or land left unused against regulations.

Article 7. Tax registration, declaration, calculation and payment

1. Taxpayers shall register, declare, calculate and pay tax under the law on tax administration.

2. Taxpayers may register, declare, calculate and pay tax at tax offices of rural districts, urban districts, towns or provincial cities in which they have land use rights or declare and pay tax to agencies and individuals authorized by tax offices according to law (below collectively to as district-level tax offices).

Taxpayers in difficult-to-access deep-lying or remote areas may register, declare, calculate and pay tax at commune-level People's Committees.

3. Taxpayers who have the right to use many land plots within a province or centrally run city shall register, declare, calculate and pay tax as follows:

a/ Taxpayers shall register, declare, calculate and pay tax for each of residential land plots for which they have use rights at the district-level tax office of the locality in which it/he/ she has land use rights like the case of having a single land plot:

b/ A taxpayer who has none of its/his/her land plots in excess of the set residential land quotas in the localities where such land plots exist may choose any of these quotas for determining the payable tax amount. The residential land area in excess of the set quota shall be determined to be

equal to the total area of all residential land plots for which the taxpayer has use rights minus the residential land quota chosen by the taxpayer:

c/ A taxpayer who has one residential land plot in excess of the set quota shall use the quota applicable in the locality in which such land plot exists for determining the payable tax amount. The residential land area in excess of the set quota shall be determined to be equal to the excessive area of the land plot in the chosen locality plus the total area of other land plots for which the taxpayer has use rights:

d/ A taxpayer who has two or more residential land plots in excess of the residential land quotas may choose the residential land quota in the locality where one of these land plots exists for determining the payable tax amount. The residential land area in excess of the set quota shall be determined to be equal to the excessive area of the land plot in the chosen locality plus the total area of other land plots for which the taxpayer has use rights;

e/ Taxpayers shall make a general declaration according to a form set by the Ministry of Finance for determining the total area of residential land plots for which they have the use rights and the paid tax amount, and send this declaration to the tax office of the locality they have chosen for determining the residential land quota in order to pay the difference between the tax amount payable under this Decree and the tax amounts already paid to the district-level tax offices of the localities where they have land use rights.

4. The Ministry of Finance shall specify the tax registration, declaration, payment and calculation provided in this Decree.

Article 8. Tax exemption and reduction and principles thereof

Entities eligible for non-agricultural land use tax exemption or reduction and tax exemption and reduction principles comply with Articles 9, 10 and 11 of the Law on Non-Agricultural Land Use Tax. Some contents are specified as follows:

1. Lists of domains eligible for investment promotion: domains eligible for special investment promotion: region of socio-economic difficulties; and region of exceptional socio-economic difficulties specified in Clauses 1 and 4. Article 9, and Clauses 1 and 2. Article 10, of the Law on Non-Agricultural Land Use Tax comply with the investment law. .

2. Establishments carrying out socialized activities eligible for tax exemption specified in Clause 2. Article 9 of the Law on Non-Agricultural Land Use Tax must -satisfy the requirements on forms, operation scopes and standards applicable to establishments carrying out socialized educational, vocational training, healthcare, cultural, sports or environmental activities prescribed in the Prime-Minister's decisions.

3. Poor households eligible for tax exemption under Clause 6, Article 9 of the Law on Non-Agricultural Land Tax Use shall be determined under the Prime Minister's decision on the poverty line. In case provincial-level People's Committees have specified the poverty lines applicable in their localities according to law, the poverty lines promulgated by provincial-level People's Committees shall apply.

Chapter III

IMPLEMENTATION PROVISIONS

Article 9. Responsibilities of a number of ministries and provincial-level People's Committees

1. In the third quarter of 2011, the Ministry of Natural Resources and Environment shall promulgate a document to provide and guide local natural resources and environment agencies in identifying areas of land used for improper purposes, encroached or appropriated land or land left unused against regulations to serve as a basis for tax calculation according to the Law on Non-Agricultural Land Use Tax.

2. The Ministry of Finance shall:

a/ Direct the building of a tax collection administration database on the basis of the land management database supplied by natural resources and environment agencies;

b/ Guide and direct tax offices to organize and manage the collection of non-agricultural land use tax under this Decree and the tax administration law.

3. Provincial-level People's Committees shall:

a/ Set and announce land prices and residential land quotas applicable to each area and in each period to serve as a basis for tax calculation under this Decree.

b/ Direct local agencies and units to properly implement the Law on Non-Agricultural Land Use Tax and this Decree.

Article 10. Effect and implementation guidance

1. This Decree takes effect on January 1, 2012, and replaces the Government's Decree No. 94-CP of August 25, 1994, detailing the Ordinance on House and Land Tax and the Ordinance Amending and Supplementing a Number of Articles of the Ordinance on House and Land Tax.

2. The Ministry of Finance shall guide the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and concerned organizations and individuals shall implement this Decree.-

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

THE NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom – Happiness

No. 48/2010/QH12

LAW

ON NON-AGRICULTURAL LAND USE TAX

Pursuant to 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 Non-Agricultural Land Use Tax.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Law provides for objects liable or not liable to, payers of, bases for, registration, declaration, calculation and payment of, exemption from and reduction of, non-agricultural land use tax.

Article 2. Tax-liable objects

1. Residential land in rural and urban areas.
2. Non-agricultural production and business land, including land for the construction of industrial parks; land for the construction of production and business establishments; land for mineral exploitation and processing; and land for the production of construction materials and pottery articles.
3. Non-agricultural land specified in Article 3 of this Law which is used for commercial purposes.

Article 3. Objects not liable to tax

Non-agricultural land used for purposes other than commercial ones, including:

1. Land used for public purposes, including traffic and irrigation land, land for the construction of cultural, healthcare, education and training, and physical training and sports works for public interests; land with historicalcultural relics or scenic places; and land for the construction of other public works under the Government's regulations;
2. Land used by religious institutions;
3. Land used for cemeteries and graveyards;
4. Land under rivers, canals, ditches, streams and special-use water surface;
5. Land with communal houses, temples, worship halls or clans' worship houses;
6. Land for the construction of working offices or non-business works or for national defense and security purposes;
7. Other non-agricultural land provided for by law.

Article 4. Taxpayers

1. Taxpayers are organizations, households and individuals that have the right to use tax-liable land specified in Article 2 of this Law. 2. When organizations, households or individuals have not yet been granted land use right certificates or house and land-attached asset ownership certificates (below collectively referred to as certificates), current land users will be taxpayers.

3. Taxpayers in some cases are specified as follows:

a/ When land is leased by the State for the implementation of investment projects, lessees will be taxpayers;

b/ When persons having land use rights lease land under contracts, taxpayers shall be identified as agreed upon in these contracts. When no agreement on taxpayers is made in contracts, persons having land use rights will be taxpayers;

c/ When land has been granted a certificate but is currently under dispute, pending the dispute settlement, current land users will be taxpayers. Tax payment does not serve as a ground for the settlement of disputes over land use rights;

d/ When many persons have the right to co-use a land plot, the lawful representative of these co-users will be the taxpayer;

e/ When a person having land use rights contributes his/her land use rights as business capital, thereby forming a new legal entity that has the right to use tax-liable land specified in Article 2 of this Law, the new legal entity will be the taxpayer.

Chapter II

TAX BASES, REGISTRATION, DECLARATION, CALCULATION AND PAYMENT

Article 5. Tax bases

Tax bases are taxable price and tax rate.

Article 6. Taxable price

1. Taxable price of land is the taxable land area multiplied by the price of one square meter of land.

2. The taxable land area is specified as follows: a/ The taxable land area is the actually used land area.

When a person has the right to use many residential land plots, the taxable land area is the total area of taxable land plots.

When land is allocated or leased by the State for the construction of an industrial park, the taxable land area is exclusive of the land area for the construction of infrastructure facilities under common use;

b/ For residential land of a multi-story building with many users or a condominium with areas for both dwelling and commercial purposes, the taxable land area is the allocation coefficient multiplied by the area of the apartment of each user.

The allocation coefficient is the land area for the construction of a multistory building with many users or a condominium divided by the total area of apartments of users.

If a multi-story building with many users or a condominium has a basement, 50% of the basement area used by organizations, households and individuals shall be added to the total area of their apartments for calculating the allocation coefficient;

c/ For underground construction works, the applicable allocation coefficient is 0.5 of the constructed land area divided by the total area of works used by organizations, households and individuals. 3. The price of a square meter of land is the price of land based on its use purpose which is set by the provincial-level People's Committee for a 5 year stabilization period from the effective date of this Law.

Article 7. Tax rates

1. Tax rates for residential land, including land used for commercial purposes, to be applied according to the Partially Progressive Tariff are specified as follows:

Tax grade	Taxable land area (m2)	Tax rate (%)
1	Area within the set quota	0.03
2	Area in excess of up to 3 times the set quota	0.07
3	Area in excess of over 3 times the set quota	0.15

2. The residential land quota used as a basis for tax calculation is the new quota of residential land allocation set by provincial-level People's Committees from the effective date of this Law.

When residential land quotas have been set before the effective date of this Law, the following provisions shall be applied:

a/ When the residential land quota set before the effective date of this Law is lower than the new quota of residential land allocation, the new quota will be used as a basis for tax calculation;

b/ When the residential land quota set before the effective date of this Law is higher than the new quota of residential land allocation, the old quota will be used as a basis for tax calculation.

3. Residential land of multi-story buildings with many households, condominiums or underground construction works is subject to the tax rate of 0.03%.

4. Non-agricultural production and business land is subject to the tax rate of 0.03%.

5. Non-agricultural land specified in Article 3 of this Law which is used for commercial purposes is subject to the tax rate of 0.03%. 6. Land used for improper purposes or land not yet used under regulations is subject to the tax rate of 0.15%. Land of a phased investment project as registered by the investor and approved by a competent state agency will not be regarded as unused land and is subject to the tax rate of 0.03%. 7. Encroached or appropriated land is subject to the tax rate of 0.2% and has no applicable quota. Tax payment does not serve as a basis for recognizing taxpayers' lawful land use rights for the encroached or appropriated land area.

Article 8. Tax registration, declaration, calculation and payment

1. Taxpayers shall register, declare, calculate and pay tax under the law on tax administration.

2. Taxpayers shall register, declare, calculate and pay tax at tax offices of rural districts, urban districts, towns or provincial cities in which they have land use rights.

Taxpayers in deep-lying or remote areas difficult to access may register, declare, calculate and pay tax at commune-level People's Committees. Tax offices shall create conditions for taxpayers to fulfill their obligations.

3. When a taxpayer has the right to use many residential land plots, the taxable area is the total area of taxable residential-land plots within a province or centrally run city. Tax registration, declaration, calculation and payment are specified as follows:

a/ Taxpayers shall register, declare, calculate and pay tax at tax offices of rural districts, urban districts, towns or provincial cities in which they have land use rights;

b/ Taxpayers may choose the residential land quota applicable in a rural district, urban district, town or provincial city in which they have land use rights. A taxpayer who has one or more than one residential land plot in excess of the set quota may choose one place in which he/she has a residential land plot in excess of the set quota for determining the land plots' area in excess of the set quota .

The applicable taxable price is the land price applied in each rural district, urban district, town or provincial city in which the land plot exists. Taxpayers shall make general declarations according to a set form for determining the total area of residential land plots for which they have use rights and the paid tax amount, and send them to the tax office of the locality they have chosen for determining the residential land quota in order to pay the difference between the tax amount payable under this Law and the paid tax amount.

Chapter III

TAX REDUCTION AND EXEMPTION

Article 9. Tax exemption

1. Land of investment projects in domains eligible for special investment promotion; investment projects in areas with extreme socio-economic difficulties; investment projects in domains eligible for investment promotion in areas with socio-economic difficulties; and land of enterprises with over 50% of their employees being war invalids and diseased soldiers.
2. Land of establishments carrying out socialized educational, vocational training, healthcare, cultural, sports or environmental activities.
3. Land for the construction of houses of gratitude, houses of great solidarity, establishments nurturing lonely aged people, people with disabilities or orphans, and social-disease treatment establishments.
4. Residential land within the set quota in areas with extreme socioeconomic difficulties.
5. Residential land within the set quota , of revolutionary activists before August 19, 1945; war invalids of 1/4 or 2/4 grade and people enjoying policies like these war invalids; diseased soldiers of 1/3 grade; people's armed forces heroes; heroic Vietnamese mothers; natural parents of, or people nurturing, martyrs when they were minors; spouses of martyrs; martyrs' children eligible for monthly allowances; agent orange victims who are revolutionary activists; and agent orange victims with difficult family circumstances.
6. Poor households' land within the set quota under the Government's regulations.
7. Households and individuals whose residential land is actually recovered in a year under the approved planning or plan will be exempt from tax on the recovered land and the land in the new place of residence in that year.
8. Land with garden houses certified by a competent state agency as historical-cultural relics.

9. Taxpayers who face difficulties due to force majeure circumstances if the value of damage related to land and houses on land accounts for over 50% of the taxable price.

Article 10. Tax reduction

Fifty per cent reduction of the payable tax amount is applied in the following cases:

1. Land of investment projects in domains eligible for investment promotion; investment projects in areas with socio-economic difficulties; and land of enterprises with between 20% and 50% of their employees being war invalids and diseased soldiers;

2. Land within the set quota in areas with socio-economic difficulties; 3. Land within the set quota, of war invalids of 3/4 or 4/4 grade and people enjoying policies like these war invalids; diseased soldiers of 2/3 or 3/3 grade; and martyrs' children ineligible for monthly allowances; 4. Taxpayers who face difficulties due to force majeure circumstances if the value of damage related to land and houses on land accounts for between 20% and 50% of the taxable price.

Article 11. Tax exemption and reduction principles

1. Taxpayers who are eligible for both tax exemption and reduction for the same land plot will be exempt from tax. Taxpayers who concurrently fall into two or more cases eligible for tax reduction specified in Article 10 of this Law will be exempt from tax.

2. Residential land taxpayers will be eligible for tax exemption or reduction only in one place chosen by them, except the cases specified in Clause 9, Article 9 and Clause 4, Article 10 of this Law.

3. Taxpayers who have many investment projects eligible for tax exemption or reduction will enjoy tax exemption or reduction under each investment project.

4. Tax exemption or reduction will only apply directly to taxpayers and be calculated only on the tax amounts payable under this Law.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 12. Effect

1. This Law takes effect on January 1, 2012.

2. The following legal documents will cease to be effective on the effective date of this Law:

a/ The 1992 Ordinance on Housing and Land Tax;

b/ The 1994 Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Housing and Land Tax.

Article 13. Implementation detailing and guidance

The Government shall detail and guide necessary contents of this Law to meet state management requirements.

This Law was passed on June 17, 2010, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 7th session.

CHAIRMAN OF THE NATIONAL ASSEMBLY

Nguyen Phu Trong

THE GOVERNMENT

No. 108/2006/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Hanoi, September 22, 2006

DECREE

**DETAILING AND GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF
THE INVESTMENT LAW**

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the November 29, 2005 Law on Investment;

At the proposal of the Minister of Planning and Investment;

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation and subjects of application

1. Scope of regulation

a/ This Decree details and guides the implementation of a number of articles of the November 29, 2005 Law on Investment regarding investment activities for business purposes; rights and obligations of investors; guarantees for legitimate rights and interests of investors; investment encouragement and incentives; and state management of investment in Vietnam;

b/ Offshore investment; investment activities in the forms of build-operate-transfer contract, build-transfer-operate contract and build-transfer contract shall comply with separate regulations of the Government;

c/ Indirect investment activities in the forms of purchase of shares, share certificates, bonds and other valuable papers, investment in securities and investment through other intermediary financial institutions without direct participation of investors in managing and running economic organizations shall comply with the law on securities and relevant laws;

d/ Specific investment activities provided in a specialized law shall comply with that law.

2. This Law applies to investors defined in Clause 4, Article 3 of the Law on Investment; organizations and individuals involved in investment activities.

Article 2.- Interpretation of terms

In this Decree, the terms below are construed as follows:

1. Investment capital means amounts in Vietnam dong or freely convertible foreign currencies and other lawful assets used for carrying out investment activities in the form of either direct or indirect investment. Lawful assets include:

a/ Shares, share certificates or other valuable papers;

b/ Bonds, liabilities and other forms of debt;

c/ Rights under contracts including turn-key contracts, construction contracts, management contracts, product or revenue sharing contracts;

d/ Rights to recover debts and contractual rights of economic value;

e/ Technology and intellectual property rights, including trade marks, industrial designs, inventions, trade names, origin or appellation of origin of goods;

f/ Rights of assignment, including rights to exploration and exploitation of natural resources;

g/ Immovables, rights to immovables, including rights to lease, to transfer, to make capital contribution, to mortgage and to provide guarantee;

h/ Profits generated from investment activities, including profits, share interests, dividends, royalties and assorted charges;

i/ Assets and other rights of economic value as provided for by law and treaties to which Vietnam is a contracting party.

2. New investment project means a project executed for the first time or an investment project independent from a currently operating project.

3. Expansion investment project means an investment project for the development of a currently operating investment project in order to expand scale, increase output or business capacity, renew technology, improve product quality and mitigate environmental pollution.

4. Foreign investor investing in Vietnam for the first time means a foreign investor who for the first time has an investment project in Vietnam.

Article 3.- Application of investment law, treaties, foreign laws and international investment practice

1. The application of investment law, treaties, foreign laws and international investment practice shall comply with the provisions of Article 5 of the Investment Law.

2. When a Vietnamese law that is promulgated after Vietnam becomes a contracting party to a treaty contains provisions which are more favorable than those of the treaty, investors are entitled to select the application of the treaty or the Vietnamese law.

Article 4.- Language

The dossier of an investment project and official documents sent to Vietnamese state agencies must be in Vietnamese for domestic investment projects; for foreign investment projects, they must be in Vietnamese or in both Vietnamese and a common foreign language. If there is a disparity between the Vietnamese and the foreign language versions, the Vietnamese one shall be applied.

Chapter II

FORMS OF INVESTMENT

Article 5.- Forms of investment

Investors shall carry out investment activities in Vietnam in the forms of investment provided in Articles 21, 22, 23, 24, 25 and 26 of the Investment Law and the provisions of this Decree.

Article 6.- Establishment of economic organizations and execution of investment projects

1. Domestic investors that have an investment project associated with the establishment of an economic organization shall carry out procedures for business registration in accordance with the Enterprise Law and relevant laws and shall carry out investment procedures in accordance with the Investment Law and this Decree.

2. Foreign investors investing in Vietnam for the first time must have an investment project and shall carry out investment procedures in order to be granted an investment certificate under the provisions of the Investment Law and this Decree. The investment certificate is concurrently the business registration certificate.

3. For foreign investors that have been granted an investment certificate in Vietnam:

a/ If they have a new investment project but do not establish a new economic organization, they shall carry out investment procedures so as to be granted an investment certificate under the provisions of the Investment Law and this Decree;

b/ If they have a new investment project associated with the establishment of a new economic organization, they shall carry out investment procedures under the provisions of Clause 2 of this Article.

Article 7.- Establishment of economic organizations with 100% capital of investors

1. Domestic investors and foreign investors may invest in the form of 100% of their own capital to establish limited liability companies, joint-stock companies, partnerships or private enterprises under the provisions of the Enterprise Law and relevant laws.

2. Enterprises with 100% foreign investment capital which have been established in Vietnam may cooperate with one another and with foreign investors to establish new enterprises with 100% foreign investment capital.

3. An enterprise with 100% foreign investment capital shall have the legal person status under Vietnamese law, be established and operate from the date of grant of the investment certificate.

Article 8.- Establishment of joint-venture economic organizations between domestic and foreign investors

1. Foreign investors may enter into joint ventures with domestic investors to establish limited liability companies with two or more members, joint-stock companies or partnerships under the provisions of the Enterprise Law and relevant laws.

2. An enterprise established under the provisions of Clause 1 of this Article may enter into a joint venture with domestic investors and foreign investors to invest in the establishment of a new economic organization under the provisions of the Enterprise Law and relevant laws.

3. An enterprise investing in the form of a joint venture shall have the legal person status under Vietnamese law, be established and operate from the date of grant of the investment certificate.

Article 9.- Investment in the form of business cooperation contract

1. In the case of investment in the form of business cooperation contract between one or more foreign investors and one or more domestic investors (hereinafter referred to as business cooperation parties for short), the business cooperation contract must stipulate the interests and responsibilities of, and the sharing of business results to, each business cooperation party.

2. Business cooperation contracts in the domain of prospecting, exploration for and exploitation of oil and gas and some other natural resources in the form of product sharing contract must comply with the provisions of relevant laws and the Investment Law.

3. A business cooperation contract signed between domestic investors for investment and business purposes must comply with the provisions of law on economic contracts and relevant laws.

4. In the process of investment and business, the business cooperation parties may agree to establish a coordination board for the performance of the business cooperation contract. The functions, tasks and powers of the coordination board shall be as agreed by the business cooperation parties. The coordination board is not a leadership body of the business cooperation parties.

5. A foreign business cooperation party may set up an executive office in Vietnam to act as its representative in the performance of the business cooperation contract.

The executive office of a foreign business cooperation party shall have a seal; may open accounts, recruit employees, sign contracts and conduct business activities within the scope of its rights and obligations defined in the investment certificate and the business cooperation contract.

Article 10.- Investment in the form of contribution of capital to, purchase of shares from, merger with or acquisition of enterprises

1. Investors are entitled to contribute capital to, purchase shares from, merge with or acquire enterprises in order to participate in management of investment activities under the provisions of the Enterprise Law and relevant laws. Merging or acquiring enterprises shall take over the rights and obligations of merged or acquired enterprises, unless otherwise agreed by the parties.

2. When an investor contributes capital to, purchases shares from, merges with or acquires an enterprise in Vietnam, the investor shall comply with the provisions of treaties to which Vietnam is a contracting party on the ratio of capital contribution, forms of investment and the market opening roadmap; shall observe the provisions of the competition law and enterprise law on conditions for economic concentration; and shall meet investment conditions, if the investment project is in a conditional investment domain.

Chapter III

RIGHTS AND OBLIGATIONS OF INVESTORS

Article 11.- Right to investment and business autonomy

1. Investors are entitled to investment and business autonomy as provided in Article 13 of the Investment Law, except for investment and business in the domains banned by law from investment and business.

2. For conditional investment domains, investors are entitled to investment and business autonomy if they meet investment conditions as required by law.

Article 12.- Right to access and use credit capital sources, land and natural resources

Investors have equal rights to access and use credit capital sources, land and natural resources in accordance with law.

Article 13.- Right to hire and employ laborers and set up trade unions

Investors are entitled to:

1. Hire domestic and foreign laborers as managers, technicians and specialists in accordance with the requirements of production and business. If a treaty to which Vietnam is a contracting party contains different provisions, the provisions of that treaty shall be applied.
2. Decide on salaries and minimum salary level for laborers in accordance with the labor law.
3. Set up trade unions in enterprises in accordance with law.

Article 14.- Rights to import, export, advertise, conduct marketing, conduct processing and re-processing related to investment activities

Investors are entitled to:

1. Directly export or entrust the export of, directly import or entrust the import of, equipment, machinery, supplies, raw materials and goods for investment activities; advertise, conduct marketing, process and re-process goods related to investment activities under the provisions of Article 15 of the Investment Law and the provisions of the commercial law.
2. Invest in the domains of importation, exportation, distribution and other commercial services in accordance with the investment law, the commercial law and treaties to which Vietnam is a contracting party.

Article 15.- Right to buy and sell goods between export processing enterprises and the domestic market

1. Export processing enterprises may buy goods from the domestic market for production, processing, re-processing or assembly of export goods or for export, except for goods banned from export.
2. Export processing enterprises may sell into the domestic market the following goods:
 - a/ Products made by export processing enterprises and not banned from import;
 - b/ Products made by export processing enterprises and needed by the domestic market;
 - c/ Scraps and defective products collected in the process of production which are not banned from import or are permitted for import under the commercial law and relevant laws.
3. The relationship of purchase and sale of goods between export processing enterprises and the domestic market shall be as provided for in the commercial law.

Article 16.- Right to open bank accounts and buy foreign currencies

1. Investors may open Vietnam dong and foreign currency accounts at credit institutions located in Vietnam in accordance with the law on foreign exchange management. If obtaining approval of the State Bank of Vietnam, investors may open accounts at overseas banks.

The conditions and procedures for opening, using and closing accounts at credit institutions located in Vietnam and overseas banks shall be as provided for in the law on foreign exchange management and relevant laws.

2. Investors may purchase foreign currencies from credit institutions licensed to deal in foreign currencies to meet the requirements for current transactions, capital transactions and other permitted transactions in accordance with the law on foreign exchange management.

3. The Government shall support foreign exchange balancing when licensed credit institutions cannot fully satisfy the demand for foreign currency of investors for a number of important investment projects in the following domains:

a/ Energy;

b/ Waste treatment;

c/ Construction of traffic infrastructure.

4. The Prime Minister shall decide to guarantee the foreign currency balancing for investors having investment projects in the domains specified in Clause 3 of this Article. A guarantee of foreign currency balance shall be stated in the investment certificates.

Article 17.- Right to access land funds, to mortgage land use rights and assets attached to land

1. Provincial-level Peoples Committees shall make public land use plannings and plans already approved by competent authorities so that investors can access land funds for investment development.

2. Investors may mortgage land use rights and assets attached to land with credit institutions licensed to operate in Vietnam to borrow capital for executing investment projects in accordance with the land law and relevant laws.

Article 18.- Other rights of investors

1. To enjoy investment preferences in accordance with the investment law and relevant laws.

2. To access and use public services and utilities on the principle of non-discrimination among investors.

3. To select forms of investment, scale of investment and ratio of investment capital, and to determine their investment and business activities. If a treaty to which Vietnam is a contracting party contains different provisions, the provisions of the treaty shall be applied.

4. To access legal documents and policies on investment; data on the national economy and each economic sector, and other socio-economic information relating to investment activities.

5. To give comments on investment law and policies right at the drafting stage in accordance with law.

6. To lodge complaints, denunciations or initiate lawsuits in accordance with law against any organizations or individuals that commit acts in violation of the investment law.

7. To exercise other rights as provided for by law.

Article 19.- Rights of investors in industrial parks, export processing zones, hi-tech parks or economic zones

1. In addition to the rights specified in Articles 11, 12, 13, 14, 15, 16, 17 and 18 of this Decree, investors investing in production and business activities in industrial parks, export processing zones, hi-tech parks or economic zones have the following rights:

a/ To lease or purchase workshops, offices, storehouses and storing yards already built in industrial parks, export processing zones, hi-tech parks or economic zones for production and business purposes;

b/ To use, with payment of charges, technical infrastructure works and service facilities, including systems of roads, electricity supply, water supply, water drainage, communication, wastewater treatment, waste treatment and other public works and utilities in industrial parks, export processing zones, hi-tech parks or economic zones;

c/ To transfer and receive the transfer of the rights to use, lease or sublease land on which technical infrastructure works have been built within industrial parks, export processing zones, hi-tech parks or economic zones for building workshops, offices and other works for production and business purposes in accordance with the land law and the real estate business law.

2. Investors investing and commercially operating infrastructures in industrial parks, export processing zones, hi-tech parks or economic zones have the following rights:

a/ To build workshops, offices, storehouses and storing yards in industrial parks, export processing zones, hi-tech parks or economic zones for sale or lease;

b/ To determine charge rates for lease or sub-lease of land areas with technical infrastructure; to determine charge rates for use of technical infrastructure works and other service facilities in industrial parks, export processing zones, hi-tech parks or economic zones; and to fix charge rates for lease or selling prices of workshops, offices, storehouses and storing yards, and to determine service charge rates;

c/ To collect charges for the use of infrastructure works, service facilities and public utilities in industrial parks, export processing zones, hi-tech parks or economic zones in accordance with regulations of the Ministry of Finance;

d/ To transfer to other investors the rights to use, lease and sub-lease land areas with technical infrastructure in industrial parks, export processing zones, hi-tech parks or economic zones in accordance with the land law and the real estate business law.

Article 20.- Right to investment guarantee in case of changes in law and policy

1. When a newly promulgated law or policy adversely affects legitimate interests to which investors are entitled before the new law or policy takes effect, investors shall be guaranteed either entitlement to the preferences stated in their investment certificates or application of one or some of the following measures:

a/ Continued enjoyment of the existing rights and preferences;

b/ Deduction of losses from taxable income;

c/ Adjustment of the objectives of the project;

d/ Consideration for compensation in some necessary cases.

2. With regard to the measure of compensation referred to at Point d, Clause 1 of this Article, the investment certificate-granting agency shall submit to the Prime Minister for decision the guarantee of the investors interests upon any change in law or policy adversely affecting the investors legitimate interests.

Article 21.- Obligations and responsibilities of investors

1. Obligations of investors:

- a/ To comply with the investment law; and conduct investment activities in accordance with the contents of investment registration documents and investment certificates;
- b/ To fulfill all financial obligations in accordance with law;
- c/ To observe the laws on accountancy, audit and statistics;
- d/ To perform obligations in accordance with the insurance and labor laws; to respect the honor, dignity and ensure legitimate rights and interests of laborers;
- e/ To respect political or socio-political organizations and create favorable conditions for laborers to found or participate in political or socio-political organizations in accordance with law;
- f/ To observe the environment law;
- g/ To perform other obligations as provided for by law.

2. Responsibilities of investors:

- a/ To be liable for the accuracy and truthfulness of the contents of investment registration documents, investment project dossiers and for the legality of documents in investment project dossiers;
- b/ To report on their investment activities under the provisions of this Decree and relevant laws and be liable for the accuracy and truthfulness of the contents of their reports;
- c/ To supply documents, materials and information relating to the contents of examination, inspection and supervisions of investment activities to competent state agencies in accordance with law.

Chapter IV

DOMAINS AND GEOGRAPHICAL AREAS ENTITLED TO INVESTMENT PREFERENCES; INVESTMENT PREFERRENCES AND SUPPORTS

Section I. INVESTMENT PREFERENCES

Article 22.- Domains and geographical areas entitled to investment preferences

1. The list of sector of investment preferences, including sector of special investment preferences and sector of investment preferences, is included in Appendix I to this Decree.
2. The list of geographical areas entitled to investment preferences, including geographical areas facing extremely difficult socio-economic conditions and geographical areas with difficult socio-economic conditions, is included in Appendix II to this Decree.
3. Investment projects in the sector of special investment preferences defined in Appendix I to this Decree are eligible for investment preferences like investment projects located in geographical areas with extremely difficult socio-economic conditions defined in Appendix II to this Decree.

Article 23.- Conditional investment domains and domains banned from investment

1. Condition investment domains and domains banned from investment are defined in Articles 29 and 30 of the Investment Law.

2. The list of conditional investment domains applicable to foreign investors is included in Appendix III to this Decree. The list of domains banned from investment is included in Appendix IV to this Decree.

Article 24.- Subjects entitled to investment preferences

Investors having investment projects, including expansion investment projects, in domains or geographical areas entitled to investment preferences defined in this Decree are entitled to investment preferences in accordance with the Investment Law and relevant laws.

Article 25.- Enterprise income tax and import duty preferences

1. Investors having investment projects in domains or geographical areas entitled to investment preferences defined in this Decree are entitled to enterprise income tax preferences in accordance with the law on enterprise income tax.

2. Investors having investment projects in domains or geographical areas entitled to investment preferences defined in this Decree are entitled to import duty preferences for imports in accordance with the law on import and export duties.

Article 26.- Preferences related to land use tax, land use levy, land rent and water surface rent

Investors to whom the State assigns land without collection of land use levies, assigns land with collection of land use levies or the State leases land and who have investment projects in domains or geographical areas entitled to investment preferences defined in this Decree are entitled to exemption from or reduction of land use tax, land use levy, land rent or water surface rent in accordance with the land law and the taxation law.

Article 27.- Procedures for implementation of investment preferences

Procedures for implementation of investment preferences shall be as provided in Article 38 of the Investment Law.

Article 28.- Adjustment and supplementation of investment preferences

1. If, during execution of an investment project, an investor satisfies conditions for enjoying more investment preferences, the investor is entitled to these investment preferences and has the right to request the investment certificate-granting agency to adjust and supplement investment preferences defined in the granted investment certificate.

2. If, during execution of an investment project, an investor fails to satisfy conditions for enjoying investment preferences, the investor is not entitled to these investment preferences.

3. The state management agency implementing investment preferences shall notify in writing the investment certificate-granting agency of the investors failure to satisfy the conditions for entitlement to investment preferences.

Article 29.- Application of investment preferences

1. An investor currently entitled to investment preferences under the provisions of the Law on Domestic Investment Promotion, the Law on Foreign Investment in Vietnam, the Cooperatives Law and tax laws continues to be entitled to these investment preferences.

2. An investor who has a currently operating investment project and falls into the subject defined in Article 24 of this Decree continues to be entitled to investment preferences for the remaining preference period following the effective date of this Decree.

3. When a newly promulgated law or policy provides benefits and preferences higher than those that an investor are currently enjoying, the investor is entitled to the new benefits and preferences for the remaining preference period (if any) following the effective date of the new law or policy.

4. If a treaty to which Vietnam is a contracting party contains provisions different from those of Clauses 1, 2 and 3 of this Decree, the provisions of Article 3 of this Decree shall be applied.

Section II. INVESTMENT SUPPORTS

Article 30.- Technology transfer supports

1. The Government shall create favorable conditions for and shall ensure legitimate rights and interests of technology transfer parties, including capital contribution in technology to execute investment projects in Vietnam in accordance with the intellectual property law and the technology transfer law.

The value of a technology used for capital contribution or of a transferred technology shall be as agreed by the parties and stated in the technology transfer contract.

2. The Government shall encourage the transfer into Vietnam of advanced technology, source technology and other technologies for the creation of new products, raising of production capability, competitiveness, product quality, conservation and efficient use of raw materials, fuels, energy and natural resources; and shall encourage investment in technology renewal, improvement of management capability and use of technology.

3. On the basis of socio-economic development objectives, the Government shall adopt policies to support small- and medium-sized enterprises and cooperatives to invest in research and development of technology and technology transfer.

4. The rights and obligations of technology transfer parties and the process and procedures for technology transfer shall be as provided in the technology transfer law.

Article 31.- Training supports

1. The Government shall encourage and support investors to set up training support funds from capital contributions and aid from organizations and individuals at home and abroad as follows:

a/ Training support funds shall be set up and operate for non-profit purposes, and are eligible for tax exemption and reduction in accordance with the taxation law;

b/ Training expenses paid by economic organizations shall be accounted as reasonable expenses when determining taxable enterprise income.

2. The Government shall provide supports from the budget for the training of laborers in economic organizations through the human resource training support programs.

3. The Government shall adopt plans and programs to support the training of human resources for small- and medium-sized enterprises.

Article 32.- Supports for development investment and investment services

1. The Government shall provide development investment supports for projects that satisfy the following conditions:

a/ Projects in important branches or domains under major economic programs which directly affect economic restructuring or accelerate sustainable economic growth but where the State

does not grant and commercial banks do not provide loans on normal conditions because of risk factors;

b/ Projects complying with the provisions of law;

c/ Projects complying with the provisions of treaties to which Vietnam is a contracting party.

2. Credit support for investment development shall be provided in accordance with the law on the States credit for development investment.

3. The Government shall encourage and support organizations and individuals, irrespective of their economic sector, to provide the following investment support services:

a/ Investment consultancy, management consultancy;

b/ Intellectual property consultancy, technology transfer consultancy;

c/ Vocational training, technical and management skills training;

d/ Supply of market information, scientific, technical and technological information and socio-economic information upon request of investors;

e/ Marketing, investment and trade promotion;

f/ Establishment of and participation in social and socio-professional organizations in accordance with law;

g/ Establishment of design centers and testing centers to support the development of small- and medium-sized enterprises.

Article 33.- Supports for investment in the construction of infrastructure outside the fences of industrial parks, export processing zones and hi-tech parks

1. The Government shall encourage and adopt preferential policies for all economic sectors to invest in building technical infrastructure works and social infrastructure outside the fences of industrial parks, export processing zones and hi-tech parks.

2. On the basis of the Prime Minister-approved master plan on development of industrial parks, export- processing zones, hi-tech parks and economic zones, ministries, branches and Peoples Committees of provinces and centrally run cities (below referred to as provincial-level Peoples Committees) shall work out investment plans and organize the building of technical infrastructure works and social infrastructure outside the fences of industrial parks, export processing zones, hi-tech parks and economic zones.

3. Provincial-level Peoples Committees shall balance local budgets to support investment in the building of technical infrastructure works and social infrastructure outside the fences of industrial parks, export processing zones, hi-tech parks and economic zones.

Article 34.- Supports for investment in infrastructure systems inside the fences of industrial parks and export processing zones

1. The Prime Minister shall stipulate the conditions, principles, limits and construction components eligible for central budget supports in some localities with difficult socio-economic conditions and in geographical areas with extremely difficult socio-economic conditions so that local administrations can join investors in investing in the development of technical infrastructure systems inside the fences of industrial parks and export processing zones.

2. Provincial-level Peoples Committees shall balance local budgets to support investors to invest in the development of technical infrastructure systems inside the fences of industrial parks and export processing zones.

Article 35.- Modes of investment in technical infrastructure systems in industrial parks and export processing zones

1. One or more investors may invest in and commercially operate technical infrastructure systems in industrial parks or export processing zones. They shall ensure compliance and consistence with the detailed plannings on the building of industrial parks and export processing zones already approved by competent authorities; and shall clearly define the rights and obligations of each investor.

2. For geographical areas with extremely difficult socio-economic conditions, on the basis of the practical local conditions, provincial-level Peoples Committees shall submit to the Prime Minister for permission the establishment of revenue-generating non-business units to act as investors of investment projects on building and commercial operation of technical infrastructures in industrial parks or export processing zones.

Article 36.- Supports for investment in developing technical infrastructure systems in economic zones and hi-tech parks

1. The Government shall provide supports from the investment capital source of the budget for the following cases:

a/ Investment in developing technical infrastructure systems and social infrastructures outside functional zones and important public service facilities in economic zones;

b/ Compensation for ground clearance within functional zones, resettlement and re-sedentarization for households whose land is recovered;

c/ Investment in concentrated wastewater and waste treatment facilities of functional zones.

2. The Government shall encourage and adopt preference policies for investors of all economic sectors to invest in developing technical infrastructure systems and social infrastructure in economic zones.

3. The Prime Minister shall decide on modes of mobilizing capital from other sources for investment in developing technical infrastructure systems and social infrastructures in economic zones.

4. Supports for investment in developing infrastructure systems in hi-tech parks shall be provided in accordance with the law on hi-tech parks.

Chapter V

PROCEDURES FOR DIRECT INVESTMENT

Section I. COMPETENCE TO APPROVE AND GRANT INVESTMENT CERTIFICATES

Article 37.- Projects for which the Prime Minister shall approve the investment policy

1. Investment projects in the following domains, irrespective of the source of capital and the scale of investment:

- a/ Building and commercial operation of airports; transportation by air;
- b/ Building and commercial operation of national seaports;
- c/ Exploration for, exploitation and processing of oil and gas; exploration for and exploitation of minerals;
- d/ Radio and television broadcasting;
- e/ Casino business;
- f/ Production of cigarettes;
- g/ Establishment of university-level training establishments;
- h/ Establishment of industrial parks, export processing zones, hi-tech parks and economic zones.

2. Investment projects other than those defined in Clause 1 of this Article, irrespective of the source of capital, and having an investment capital of VND 1,500 billion or more in the following domains:

- a/ Electricity business; mineral processing; metallurgy;
- b/ Building of railway, road and inland waterway infrastructure;
- c/ Production and business of alcohol and beer.

3. Foreign investment projects in the following domains:

- a/ Ocean shipping business;
- b/ Establishment of networks for and provision of postal, delivery, telecommunications and Internet services; establishment of wave transmission networks;
- c/ Press printing and distribution; publishing;
- d/ Establishment of independent scientific research institutions.

4. When an investment project defined in Clause 1, 2 or 3 of this Article is included in the planning approved by the Prime Minister or by a person authorized by the Prime Minister and satisfies the conditions required by law and treaties to which Vietnam is a contracting party, the investment certificate-granting agency shall carry out procedures for granting a investment certificate to the project without having to submit the project to the Prime Minister for decision on the investment policy.

5. When an investment project defined in Clause 1, 2 or 3 of this Article is not included in the planning approved by the Prime Minister or by a person authorized by the Prime Minister or does not satisfy conditions for opening the market in treaties to which Vietnam is a contracting party, the investment certificate-granting agency shall assume the prime responsibility for consulting the branch-managing ministry, the Ministry of Planning and Investment and other concerned agencies, sum up their opinions and submit the project to the Prime Minister for decision on the investment policy.

6. When an investment project defined in Clause 1, 2 or 3 of this Article is in a domain which has no planning yet, the investment certificate-granting agency shall consult the branch-managing ministry, the Ministry of Planning and Investment and other concerned agencies, sum

up their opinions and submit the project to the Prime Minister for decision on the investment policy.

Article 38.- Projects for which provincial-level Peoples Committees shall grant investment certificates

Provincial-level Peoples Committees shall make investment registration and grant investment certificates for the following projects:

1. Investment projects outside industrial parks, export processing zones, hi-tech parks and economic zones, including also investment projects defined in Article 37 of this Decree and for which the Prime Minister has approved the investment policy.
2. Investment projects on development on infrastructures in industrial parks, export processing zones or hi-tech parks in localities which have not yet set up industrial park, export processing zone and hi-tech park management boards.

Article 39.- Projects for which industrial park, export processing zone, hi-tech park and economic zone management boards shall grant investment certificates

Industrial park, export processing zone, hi-tech park and economic zone management boards (hereinafter referred to as management boards) shall make investment registration and grant investment certificates for the following projects:

1. Investment projects within industrial parks, export processing zones, hi-tech parks and economic zones, including also investment projects defined in Article 37 of this Decree and for which the Prime Minister has approved the investment policy.
2. Investment projects on development of infrastructures in industrial parks, export processing zones, hi-tech parks and economic zones.

Article 40.- Agencies receiving investment project dossiers

1. Provincial/municipal Planning and Investment Services shall receive dossiers of investment projects defined in Article 38 of this Decree to be executed in their localities .
2. Management boards shall receive dossiers of investment projects defined in Article 39 of this Decree to be executed in their localities.
3. For an investment project to be executed in a locality not yet covered by the administrative management of a province or a centrally run city or an investment project to be executed in more than one province or centrally run city, its dossier shall be submitted to the Planning and Investment Service of the locality where the investor has opened or intends to set up the head office or branch or executive office in order to execute the investment project.
4. Agencies receiving investment project dossiers shall guide and check the validity of investment project dossiers and carry out investment procedures under the provisions of this Decree.

Article 41.- Contents of investment certificates

1. The form of investment certificate shall be prescribed by the Ministry of Planning and Investment for uniform application nationwide.
2. An investment certificate contains the following major details:

- a/ Name and address of the investor;
- b/ Location of execution of the investment project; the land area requirement;
- c/ Objectives and scale of the investment project;
- d/ Total investment capital;
- e/ Project execution duration;
- f/ Execution schedule of the investment project;
- g/ Certification of investment preferences and supports (if any).

3. For a foreign investor who has an investment project associated with the establishment of an economic organization, the investment certificate contains the details specified in Clause 2 of this Article and the details of a business registration certificate provided in the Enterprise Law. The investment certificate is concurrently the business registration certificate.

4. An investment certificate with the contents stipulated in Clause 3 of this Article shall be granted to a domestic investor defined in Clause 1, Article 6 of this Decree who wishes to carry out investment procedures at the same time with procedures for establishment of an economic organization.

Section II. CERTIFICATION OF INVESTMENT

Article 42.- Domestic investment projects not subject to investment registration

1. Investors are not required to make investment registration for domestic investment projects capitalized at under VND 15 billion and outside conditional investment domains.
2. When an investor defined in Clause 1 of this Article wishes to obtain certification of investment preferences or an investment certificate, the investor shall make investment registration so as to be granted an investment certificate under the provisions of Article 43 of this Decree.

Article 43.- Investment registration for domestic investment projects

1. Domestic investors shall make investment registration for domestic investment projects capitalized at between VND 15 billion and under VND 300 billion and falling into the following cases:
 - a/ Being outside conditional investment domains defined in Article 29 of this Decree;
 - b/ Being other than those specified in Clause 1, Article 37 of this Decree.
2. The investor shall make investment registration with the investment project dossier-receiving agency defined in Article 40 of this Decree.
3. The agency receiving investment project dossiers shall hand over receipt slips upon receipt of investment registration documents.
4. When an investor wishes to have an investment certificate or certification of investment preferences, the investment certificate-granting agency shall base itself on the investment registration document to issue an investment certificate within 15 working days after the date of receipt of the valid investment registration document.

5. Within 7 working days after the date of grant of an investment certificate, the investment certificate-granting agency shall send its copies to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Trade, the Ministry of Natural Resources and Environment, the State Bank of Vietnam, the branch-managing agency and concerned agencies.

Article 44.- Investment registration for foreign investment projects

The procedures for investment registration of foreign investment projects defined in Article 46 of the Investment Law shall be carried out as follows:

1. An investment registration dossier comprises:

a/ Investment registration document (made according to a set form);

b/ Business cooperation contract, for investment under a business cooperation contract;

c/ Report on the financial capability of the investor (which is made by the investor and for which the investor shall bear responsibility).

2. For an investment project associated with the establishment of an economic organization, in addition to the dossier referred to in Clause 1 of this Article, the investor shall also submit:

a/ The business registration dossier corresponding to the type of enterprise as provided for in the enterprise law and relevant laws;

b/ The joint venture contract, for investment in the form of establishment of a joint-venture economic organization between a domestic investor and a foreign investor.

3. Within 15 working days after the date of receipt of the valid investment registration dossier and business registration dossiers, the investment certificate-granting agency shall check the validity of the investment registration dossier or the business registration dossier (in case of establishment of an economic organization associated with an investment project) and grant an investment certificate. It may not require any additional papers.

4. Within 7 working days after the date of grant of an investment certificate, the investment certificate-granting agency shall send its copies to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Trade, the Ministry of Natural Resources and Environment, the State Bank of Vietnam, the branch-managing agency and concerned agencies.

Article 45.- Examination of investment projects capitalized at VND billion 300 or more and outside conditional investment domains

1. An investment examination dossier comprises:

a/ An application for an investment certificate (made according to a set form);

b/ Written certification of the legal status of the investor: copy of the establishment decision or business registration certificate or a document of equivalent validity, for investors being organizations; copy of the passport or peoples identity card, for investors being individuals;

c/ Report on the investors financial capability (which is made by the investor and for which the investor shall bear responsibility).

d/ Econo-technical exposition containing the following major details: objectives, scale and location of investment; investment capital; project execution schedule; land use requirements; and technological and environmental solutions;

e/ Business cooperation contract, for investment under a business cooperation contract.

2. In order to carry out investment procedures at the same time with business registration procedures, in addition to the dossier referred to in Clause 1 of this Article, the investor shall also submit:

a/ The business registration dossier corresponding to the type of enterprise as stipulated in the enterprise law and relevant laws;

b/ Joint venture contract, for investment in the form of establishment of a joint-venture economic organization between a domestic investor and a foreign investor.

3. Examination contents:

a/ Conformity with: the technical infrastructure planning; the land use planning; the construction planning; the planning on prospecting, exploitation and processing of minerals and other natural resources.

For an investment project in a domain with no planning yet or which is not included in any of the aforesaid plannings, the investment certificate-granting agency shall consult state management agencies with planning competence;

b/ Land use requirements: land area, land category and land use schedule;

c/ Project execution schedule: investment capital disbursement schedule, construction schedule and schedule of achievement of project objectives;

d/ Environmental solutions: assessment of environmental impact factors and treatment solutions in accordance with the environment law.

Article 46.- Examination of investment projects capitalized at under VND billion 300 and in conditional investment domains

1. An examination dossier comprises:

a/ Papers referred to in Clauses 1 and 2, Article 44 of this Decree;

b/ Exposition on the capability to satisfy the conditions which the project is required by law to satisfy, for investment projects in conditional investment domains defined in Article 29 of the Investment Law and Appendix III to this Decree.

2. Examination contents:

a/ Capability to satisfy the conditions required by the Investment Law and relevant laws;

Concerned ministries and branches shall examine the capability to satisfy the conditions which the investment project is required by law to satisfy, for investment projects in conditional investment domains defined in Article 29 of the Investment Law and Appendix III to this Decree;

When investment conditions are provided by law or a treaty to which Vietnam is a contracting party, the investment certificate-granting agency shall decide to grant an investment certificate without having to gather examination opinions of concerned ministries and branches;

b/ For a domestic investment project that satisfies the investment conditions as required by law, the investment certificate-granting agency shall grant an investment certificate according to the investment registration procedures defined in Article 43 of this Decree.

Article 47.- Examination of investment projects capitalized at VND billion 300 or more and in conditional investment domains

1. An examination dossier comprises:

a/ Papers referred to in Clauses 1 and 2, Article 45 of this Decree;

b/ Exposition on the capability to satisfy the market entry conditions required for investment projects in conditional investment domains defined in Article 29 of the Investment Law and Appendix III to this Decree.

2. The examination contents shall be as stipulated in Clause 3 of Article 45 and Clause 2 of Article 46 of this Decree.

Article 48.- Process of examination of investment projects falling within the approving competence of the Prime Minister

1. An investor shall submit 10 sets of the investment project dossier, including at least one original set.

2. Within 3 working days after the date of receipt of an investment project dossier, the dossier-receiving agency shall check its validity and send it to concerned ministries and branches for examination opinions.

For an invalid dossier, the dossier-receiving agency shall notify the investor thereof for revision and supplementation of the dossier.

3. Within 15 working days after the date of receipt of an investment project dossier, the consulted agency shall give written examination opinions and take responsibility for the projects matters under its management.

4. Within 25 working days after the date of receipt of a complete and valid dossier, the investment certificate-granting agency shall make an examination report and submit it to the Prime Minister for decision on the investment policy.

5. Within 7 working days after the date of receipt of the examination report submitted by a provincial-level Peoples Committee or a management board, the Government Office shall notify the Prime Ministers opinion on the investment project.

6. Within 5 working days after the date of receipt of the approval of the Prime Minister, the provincial-level Peoples Committee or management board shall grant an investment certificate.

7. When the investment project is disapproved, the investment project dossier-receiving agency shall send a written notice to the investor, clearly stating the reason for disapproval.

8. Within 7 working days after the date of grant of an investment certificate, the investment project dossier-receiving agency shall send its copies to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Trade, the Ministry of Natural Resources and Environment, the State Bank of Vietnam, the branch-managing agency and concerned agencies.

Article 49.- Process of examination of investment projects subject to examination for grant of investment certificates

1. The investor shall submit to the provincial-level Planning and Investment Service 8 sets of the investment project dossier, including one original set, for projects for which the provincial-level Peoples Committee shall grant investment certificates; or submit to the management board 4 sets

of the investment project dossier, including one original set, for projects for which the management board shall grant investment certificates.

2. Within 3 working days after the date of receipt of an investment project dossier, the dossier-receiving agency shall check its validity and send it to concerned provincial-level services and branches for examination. When necessary, it shall send the dossier to concerned ministries and branches for opinions

For an invalid dossier, the dossier-receiving agency shall notify the investor thereof for revision and supplementation of the dossier.

3. Within 15 working days after the date of receipt of an investment project dossier, the consulted agency shall give written examination opinions and take responsibility for the projects matters under its management.

4. Within 20 working days after the date of receipt of a complete and valid dossier, the provincial-level Planning and Investment Service shall make an examination report and submit it to the provincial-level Peoples Committee for decision. Within 5 working days after the date of receipt of the examination report, the provincial-level Peoples Committee shall grant an investment certificate.

When the investment project is disapproved, the investment project dossier-receiving agency shall send a written notice to the investor, clearly stating the reason therefor.

5. Within 7 working days after the date of grant of an investment certificate, the investment project dossier-receiving agency shall send its copies to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Trade, the Ministry of Natural Resources and Environment, the State Bank of Vietnam, the branch-managing agency and concerned agencies.

Article 50.- Competence of branch-managing ministries to examine the grant of investment certificates

1. Branch-managing ministries shall examine the satisfaction of investment conditions and the conformity with plannings by investment projects in conditional investment domains defined in Article 29 of the Investment Law, Appendix III to this Decree and Article 82 of the Investment Law.

2. Pursuant to the provisions of Articles 29 and 82 of the Investment Law, branch-managing ministries shall prepare investment conditions and submit them to the Government for promulgation; formulate and approve plannings or submit them to competent agencies for approval.

After being promulgated by competent authorities, investment conditions and plannings be publicized on the mass media and posted at the head offices of investment project dossier-receiving agencies.

Section III. ADJUSTMENT OF INVESTMENT PROJECTS

Article 51.- Adjustment of investment projects

1. When adjusting an investment projects objectives, scale, location, form, capital or execution schedule, the investor shall carry out procedures to adjust the investment certificate.

2. The adjustment of an investment project may be made in one of the following processes:

a/ Procedures for adjustment registration or adjustment examination are not required;

b/ The adjustment is subject to registration;

c/ The adjustment is subject to examination.

3. Investment projects for which adjustment registration or examination procedures are not required include:

a/ Projects adjusted but not changing their objectives, scale, location, form, capital or execution schedule;

b/ Domestic investment projects which, after adjustment, are capitalized at under VND 15 billion and outside conditional investment domains;

c/ Domestic investment projects which, after adjustment, are capitalized at under VND 300 billion and do not change their investment objectives and location.

Article 52.- Registration and examination of adjustments to investment projects

1. Registration of adjustments to investment projects

a/ Projects subject to adjustment registration include projects which, after adjustment of their objectives, scale, location, form, capital or execution schedule, fall in the following cases: foreign investment projects which, after adjustment, are capitalized at under VND 300 billion and outside conditional investment domains; domestic investment projects which, after adjustment, are not in any conditional investment domains, except for those specified in Clause 3, Article 51 of this Decree; domestic investment projects which, after adjustment, are still in a conditional investment domain, do not change their investment objectives, and still satisfy the investment conditions specified for those projects, except for those specified in Clause 3, Article 51 of this Decree;

b/ A dossier of registration of adjustments to an investment project comprises: written registration of certification of the adjusted contents of the investment project; a copy of the investment certificate; the revised version of the joint-venture contract or business cooperation contract or enterprise charter (for foreign investment projects);

c/ Within 15 working days after the date of receipt of a complete and valid dossier, the investment certificate-granting agency shall grant a new investment certificate (for a project not yet granted an investment certificate) or adjust the granted one.

2. Examination of adjustments to investment projects:

a/ Investment projects subject to adjustment examination include projects which, after adjustment of their objectives, scale, location, form, capital or execution schedule, fall into the following cases: foreign investment projects which, after adjustment, are subject to examination for grant of investment certificates; domestic investment projects which, after adjustment, are in a conditional investment domain, except for those specified at Point a, Clause 1 of this Article;

b/ A dossier of examination of adjustments to an investment project comprises: written request for adjustments to the investment project; exposition on the adjustment reason; changes in the ongoing project; a report on the project execution by the time of adjustment; a copy of the investment certificate; the revised version of the joint-venture contract or business cooperation contract or enterprise charter (for foreign investment projects);

c/ Within 30 working days after the date of receipt of a complete and valid dossier, the investment certificate-granting agency shall examine the adjustments and grant a new investment certificate (for a project not yet granted an investment certificate) or adjust the granted one;

d/ When an investment project, after adjustment, falls within the approving competence of the Prime Minister but is not included in the planning or falls into a conditional investment domain where investment conditions have not yet been provided for by law, the investment certificate-granting agency shall collect examination opinions of concerned ministries and branches and submit the case to the Prime Minister for decision before granting a new investment certificate or adjusting the granted one;

e/ When adjustments are related to a conditional investment domain, the investment certificate-granting agency shall collect examination opinions of concerned ministries and branches before granting a new investment certificate or adjusting the granted one.

3. Within 7 working days after the date of grant of an adjusted investment certificate, the investment certificate-granting agency shall send its copies to the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Trade, the Ministry of Natural Resources and Environment, the State Bank of Vietnam, the branch-managing agency and concerned agencies.

Section IV. OTHER PROVISIONS ON FOREIGN INVESTMENT PROJECTS

Article 53.- Contents related to dossiers of foreign investment projects

A foreign investment project executed in the form of joint venture or business cooperation contract must, in addition to the documents defined in Articles 44, 45, 46 and 47 of this Decree, have a joint venture contract or a business cooperation contract with the contents stipulated in Articles 54 and 55 of this Decree.

Article 54.- Contents of a joint-venture contract

A joint-venture contract contains the following principal details:

1. Names and addresses of investing organizations or individuals participating in the joint venture and representatives at law of joint venture parties; name and address of the joint venture enterprise.
2. Type of enterprise;
3. Business domains, lines and scope.
4. Charter capital, contributed capital portion of each party, mode and schedule of charter capital contribution.
5. Project execution schedule.
6. Operational duration of the project.
7. Project execution location.
8. Rights and obligations of the joint venture parties.
9. Principles of financial management; sharing of profits and handling of losses in business.
10. Modes of revision and termination of the contract, conditions for the transfer, termination of operation and dissolution of the enterprise.

11. Liabilities for breach of contract, mode of settlement of disputes.

Apart from the above details, the joint venture parties may reach agreement on other details in their joint-venture contract which are not contrary to law.

Competent representatives of the joint venture parties shall initial on every page and sign at the end of their contract. A joint venture contract takes effect on the date of grant of the investment certificate.

Article 55.- Details of a business cooperation contract

A business cooperation contract contains the following principal details:

1. Names, addresses and competent representatives of the parties to the business cooperation contract; contact address or address of the project execution location.
2. Business purposes and scope.
3. Contributions of the business cooperation parties, sharing of investment and business results, contract performance schedule.
4. Project execution schedule.
5. Term of the contract.
6. Rights and obligations of the business cooperation parties.
7. Financial principles.
8. Modes of revision and termination of the contract, transfer conditions.
9. Liabilities for breach of contract, mode of settlement of disputes.

Apart from the above details, the business cooperation parties may reach agreement on other details in their business cooperation contract which are not contrary to law.

Competent representatives of business cooperation parties shall initial on every page and sign at the end of their contract. A business cooperation contract between a Vietnamese party and a foreign party takes effect on the date of grant of the investment certificate.

Article 56.- Procedures for direct investment in the form of contribution of capital to, purchase of shares from, merger with or acquisition of enterprises

An investor contributing capital to, purchasing shares from, merges with or acquires an enterprise in Vietnam under the provisions of Article 10 of this Decree shall carry out procedures as follows:

1. When a foreign investor purchases shares of a Vietnamese enterprise, that enterprise shall carry out business registration procedures in accordance with the enterprise law.
2. When an investor purchases shares of a foreign-invested enterprise currently operating in Vietnam, the investor shall carry out procedures to adjust an investment project under the provisions of Articles 51 and 52 of this Decree.
3. When an investor contributes capital for investment, the investor shall carry out investment procedures in accordance with the investment law.

4. When a foreign investor merges with or acquires an enterprise currently operating in Vietnam, the investor shall carry out investment procedures so as to be granted an investment certificate under the provisions of this Decree. A dossier of enterprise merger or acquisition comprises:

a/ Written proposal for merger with or acquisition of the enterprise indicating the name, address and representative of the foreign investor merging with or acquiring the enterprise; name, address, representative, charter capital and operation domain of the merged or acquired enterprise; brief information on the enterprise merger or acquisition; and proposals (if any);

b/ Decision of the members council or the enterprise owner or the shareholders general meeting on the sale of the enterprise;

c/ The enterprise merger or acquisition contract. This contract contains the following principal details: name, address of the head office of the merged or acquired enterprise; procedures and conditions for the merger or acquisition; plan on the use of laborers; procedures, conditions and deadline for the transfer of assets, capital, shares and bonds of the merged or acquired company; deadline for the merger or acquisition; and responsibilities of the parties;

d/ Charter of the merged or acquired enterprise;

e/ Draft charter of the enterprise after the merger or acquisition is permitted (if there are changes);

f/ Written certification of the legal status of the foreign investor: a copy of the establishment decision or the paper of equivalent validity, for investors being economic organizations; a copy of the passport, for investors being individuals.

Article 57.- Procedures for conversion of investment form of foreign investment projects

1. An investor having a project which has been granted an investment certificate or which has been granted an investment license under the provisions of the Law on Foreign Investment in Vietnam is entitled to convert the form of investment of the project into another form of investment under the provisions of Article 21 of the Investment Law.

2. An investor who has been granted an investment license under the provisions of the Law on Foreign Investment in Vietnam shall conduct the conversion under separate regulations of the Government on re-registration and conversion of foreign-invested enterprises.

3. Procedures for conversion of the form of investment of a foreign investment project shall be carried as follows:

a/ The conversion of the investment form associated with the transformation of the type of enterprise must comply with the provisions of the enterprise law;

b/ A foreign-invested enterprise or the business cooperation parties shall send to the investment certificate-granting agency a dossier of conversion of the investment form. This dossier comprises: written proposal for conversion of the investment form; decision of the members council or enterprise owner or shareholders general meeting or the agreement of the business cooperation parties (for an investment project in the form of business cooperation contract) on the conversion of the investment form; draft charter of the converted enterprise; the business cooperation contract (for an investment project in the form of business cooperation contract);

c/ The decision of the members council of the joint venture enterprise or the decision of the investor (for enterprises with 100% foreign investment capital); the agreement of the business

cooperation parties (for business cooperation contracts) on the conversion of the investment form must be notified to creditors and laborers within 15 working days after the date of the decision;

d/ Within 30 working days after the date of receipt of a complete and valid dossier referred to at Point b, Clause 3 of this Article, the investment certificate-granting agency shall adjust the investment certificate and notify the investor thereof.

Section V. SOME PROVISIONS ON PROCEDURES FOR USE OF STATE CAPITAL FOR INVESTMENT AND BUSINESS

Article 58.- Investment and business using state capital

1. Investment projects must obtain approval of competent authorities when using the following state capital for investment:

a/ State budget capital;

b/ Development investment credit of the State;

c/ State-guaranteed credit;

d/ Development investment capital of state enterprises;

e/ Investment capital of the State Capital Investment and Trading Corporation.

2. After the use of state capital for investment is appraised and approved by a competent agency, the investor shall carry out investment procedures under the provisions of this Decree so as to be granted an investment certificate. Written approval of the use of state capital for investment is a mandatory document in the investment registration dossier or the investment examination dossier.

Article 59.- Agencies appraising and approving the use of state capital for investment

1. Agencies competent to decide on the use of state budget capital shall appraise and approve the use of state capital for investment by investment projects funded with state budget capital.

2. The Vietnam Development Bank shall appraise and decide on projects eligible for development investment credit of the State.

3. The Ministry of Finance shall appraise and decide on state guarantees for investment projects funded with credit capital that are on the list of state-guaranteed investment projects.

4. The management board of an economic group, a state corporation or other state enterprise or the general director or director of a state enterprise without a management board shall appraise and decide on the use of development investment capital by the state enterprise for investment.

5. The competence of the State Capital Investment and Business Corporation to appraise and approve the use of state capital for investment shall be decided by the Prime Minister.

6. Appraisal agencies shall organize appraisal and notify the investors of their approval or disapproval of the use of state capital for investment.

Article 60.- Dossiers of appraisal of investment projects funded with state capital

A dossier of appraisal of an investment project comprises:

1. The investors written proposal for the use of state capital addressed to the appraisal agency in charge of the relevant capital source as defined in Article 59 of this Decree.

2. Written justification of the proposal for the use of state capital for investment, containing the following details:

- a/ Name of the project;
- b/ Investment objectives and scale of the project;
- c/ Location of execution of the investment project;
- d/ Investment capital amount; investment capital source; and state capital portion in the project;
- e/ Exposition on the projects conformity with the socio-economic development strategy, planning and plan already approved by competent authorities; exposition on the appropriateness of the use of investment capital;
- f/ Investment benefits, including financial and socio-economic benefits;
- g/ Exposition on the capability to recover investment capital; the capability to repay loans and the loan repayment plan (if any);
- h/ Duration of the investment project;
- i/ Execution schedule of the investment project.

Article 61.- Contents of appraisal of investment projects funded with state capital

The appraisal contents include:

- 1. The investment projects conformity with the socio-economic development strategy, planning and plan already approved by competent authorities in each period (of the whole country, the region or the territory concerned).
- 2. Appropriateness of the investment and business with state capital; investment purposes and benefits; method of management appropriate to each source of capital and type of investment project.
- 3. Conformity with the investment support policy (if any).
- 4. Execution schedule and duration of the investment project.
- 5. The capability to recover investment capital; the capability to repay loans and the loan repayment plan (if any).
- 6. Investment benefits, including financial and socio-economic benefits.

Chapter VI

PROVISIONS ON EXECUTION OF INVESTMENT PROJECTS AND ORGANIZATION OF BUSINESS ACTIVITIES

Article 62.- Execution of investment projects

Investors shall execute investment projects according to the committed objectives, contents and schedules and the provisions of their investment certificates. While executing investment projects, they shall observe the provisions of law on land, environment, labor, business registration and investment registration, and relevant laws.

Article 63.- Execution of investment projects associated with construction

When executing an investment project involving the construction of works, the investor shall comply with the provisions of law on construction management.

Article 64.- Hire of management

1. Investors may hire organizations or individuals to manage investment and business activities to meet the investors operation requirements.
2. The hiring of a management organization or individual shall be effected under a contract signed between the investor and that organization or individual.

The rights and obligations of the investor and the management organization or individual shall be defined in the contract.

Management charges shall be as agreed between the parties in the management contract and shall be accounted as management expenses of the enterprise.

3. The hiring of an organization or individual to provide management services must comply with the provisions of treaties to which Vietnam is a contracting party.
4. Organizations or individuals providing management services shall pay taxes and perform financial obligations in accordance with the taxation law and relevant laws.

Article 65.- Transfer of capital

1. An economic organization is entitled to transfer its capital in the enterprise and carry out procedures of registration of members or shareholders in the register of members or shareholders in accordance with the enterprise law and relevant laws.

A foreign-invested enterprise, when transferring its capital, shall notify the investment certificate-granting agency thereof for adjusting its investment certificate.

2. Conditions for the transfer of capital:

- a/ Assurance of requirements provided for in the Enterprise Law, this Decree and relevant laws;
- b/ Assurance of ratios and conditions provided for in treaties to which Vietnam is a contracting party;
- c/ The transfer of capital being land use right value must comply with the provisions of law on land and relevant laws.

Article 66.- Transfer of projects

1. An investor is entitled to transfer a project that the investor is executing to another investor. Conditions for transfer of a project shall be as stipulated in Clause 2, Article 65 of this Decree.
2. When the transfer of a project of an economic organization is not associated with the termination of operation of the transferring economic organization, the transfer of the project must comply with the conditions and procedures for capital transfer defined in Article 65 of this Decree.
3. When the transfer of a project is associated with the termination of investment and business operations of the transferring economic organization, the transfer of the project must comply with the conditions and procedures for merger or acquisition of enterprises defined in Article 56 of this Decree.

4. When the transfer of an investment project is associated with the termination of operation of the transferring economic organization and the transferee establishes an economic organization to continue executing the investment project, the transfer of the project must be conducted according to investment procedures defined in this Decree.

5. A dossier of transfer of an investment project comprises: written registration of the project transfer; project transfer contract; document on the legal status of the transferee; and report on the execution of the project.

6. Within 10 working days after the date of receipt of a complete and valid dossier, the investment certificate-granting agency shall grant a new investment certificate (if an investment certificate has not yet been granted) or adjust the granted investment certificate.

Article 67.- Temporary cessation or extension of execution of investment projects

1. When an investor temporarily ceases or extends the execution of an investment project, resulting in a change in the committed project execution schedule, at least 15 working days before the date of such temporary cessation or extension, the investor shall notify the investment state management agency of the reason for and the duration of temporary cessation or extension of the project execution.

2. When the investment certificate-granting agency does not approve the temporary cessation or extension of the project execution, within 15 working days after the date of receipt of the investors notice, it shall issue a written reply to the investor.

Upon resumption of operation, the investor must notify in writing the state management agency in charge of investment thereof.

Article 68.- Termination of operation of investment projects

1. The termination of operation of an investment project shall be as stipulated in Article 65 of the Investment Law.

2. The investment certificate-granting agency is entitled to decide on the termination of operation of a project in the following cases:

a/ The project has been granted an investment certificate but at the expiration of a period of 12 months the investor fails to commence executing the project or the project is executed over 12 months behind its execution schedule indicated in the investment certificate, except for permitted temporary cessation or extension of the project execution stipulated in Article 67 of this Decree;

b/ Serious violations of law that are subject to operation termination in accordance with law.

3. When, under a court judgment or ruling or an arbitral award, the operation of a project must be terminated due to serious violations of law, the investment certificate-granting agency shall decide to terminate the projects operation as determined in the court judgment or ruling or the arbitral award.

4. The decision on termination of an investment project shall be sent to the investor concerned and preserved at the investment certificate-granting agency.

Pursuant to the decision on termination of the investment project, the investment certificate-granting agency shall revoke the investment certificate and notify related agencies thereof.

Article 69.- Liquidation of investment projects

1. If, during the process of investment activities, the investment project is terminated under the conditions defined in Clauses 1, 2 and 3, Article 65 of Investment Law, the investor shall notify the investment certificate-granting agency thereof, carry out procedures for liquidation of the investment project, and return the investment certificate.

2. Procedures for liquidation of an investment project are as follows:

a/ When the liquidation of an investment project is not associated with the dissolution of the economic organization, the liquidation shall be conducted in accordance with the law on liquidation of assets or contracts;

b/ When the liquidation of an investment project is associated with the dissolution of the economic organization, the investor shall carry out the procedures for the dissolution of the economic organization in accordance with the enterprise law and relevant laws.

3. The time limit for liquidation of an investment project must not exceed 6 months counting from the date of decision on the termination of operation of the investment project. If permitted by a competent state agency, the time limit for liquidation of an investment project may be extended but it must not exceed 12 months.

At the end of the liquidation, the investor shall notify the investment certificate-granting agency thereof and return the granted investment certificate.

4. When an investment project cannot be liquidated within the time limit defined in Clause 3 of this Article because of a dispute among investors in the economic organization concerned, the dispute shall be brought to a court or an arbitration for settlement according to the provisions of law.

5. If, during the liquidation of an investment project, the economic organization cannot pay its debts, the liquidation shall terminate and be handled in accordance with the bankruptcy law.

Article 70.- Bonded warehouses

1. In export processing zones or industrial parks, economic organizations producing exports may set up bonded warehouses to serve export and import activities. Goods delivered into bonded warehouses are not liable to import duty.

The setting up of and conditions for setting up a bonded warehouse shall be as stipulated in the Governments Decree No. 154/2005/ND-CP of December 15, 2005, detailing a number of articles of the Customs Law on customs procedures, inspection and supervision.

2. Goods delivered into bonded warehouses may not be sold in the Vietnamese market. For those goods that are not subject to import ban or temporary import cessation, if selling them in the Vietnamese market, the investor shall carry out import procedures at the customs office, pay import duties and perform other financial obligations in accordance with law.

3. If goods delivered into bonded warehouses are damaged or deteriorated in quality and fail to meet production requirements, they must be re-exported or destroyed. Their destruction must comply with the provisions of law on customs, taxation and environment.

Chapter VII

STATE MANAGEMENT OF INVESTMENT

Article 71.- Contents, powers and responsibilities of state management of investment

1. Contents of state management of investment:

- a/ Formulating, and directing the implementation of, strategies, plannings, plans and policies on development investment with a view to mobilizing and regulating resources for development investment;
- b/ Promulgating, disseminating, guiding, and organizing the implementation of, policies and laws on development investment; elaborating technical standards and regulations on investment activities; supervising the promulgation of legal documents on investment; reviewing, proposing the cancellation of, or canceling legal documents which are no longer appropriate, are promulgated ultra vires or contain inappropriate provisions;
- c/ Performing state management of international cooperation, negotiating and concluding treaties relating to investment activities in accordance with these treaties;
- d/ Performing state management of investment promotion activities; building a national information system to serve investment activities;
- e/ Granting, adjusting and revoking investment certificates; uniformly managing investment registration activities and the grant of investment certificates;
- f/ Examining, inspecting and supervising the implementation of the provisions of the investment law on the state management of investment and investors activities;
- g/ Guiding and supporting investors to execute investment projects and settling their problems and requests during investment activities;
- h/ Assessing macro economic impacts and benefits of investment activities;
- i/ Collaborating with state management agencies at all levels in managing investment activities;
- j/ Conducting professional training and retraining to enhance investment management capacity of investment state management agencies at all levels;
- k/ Settling according to competence complaints and denunciations of organizations and individuals related to investment activities. Commending and rewarding organizations and individuals that make achievements in investment activities or handling organizations and individuals committing law-breaking acts.

2. Powers and responsibilities of state management of investment:

- a/ The Government shall perform uniform state management of investment activities nationwide; direct the formulation and implementation of strategies, plannings and plans on development investment in all branches, sectors and economic regions; promulgate policies and legal documents on investment; and decentralize the state management of investment to ministries, branches and localities;
- b/ The Prime Minister shall direct ministries, branches and localities to implement laws and policies on investment; approve, or decentralize the approval of plannings; decides on investment guidelines for investment projects under his/her competence; decide or permit the establishment of industrial parks, export processing zones, hi-tech parks and economic zones; direct the settlement of problems that arise in the course of administration of investment activities and fall beyond the competence of ministries, branches or localities.

c/ The Prime Minister, ministries, branches, provincial-level Peoples Committees, management boards of industrial parks, export processing zones, hi-tech parks and economic zones shall adopt programs on talks with the community of enterprises and investors;

d/ Ministries, ministerial-level agencies, provincial-level Peoples Committees and management boards shall manage and guide investment activities in the domains and geographical areas under their respective management; ensure transparent, simplified investment procedures and comply with time limits;

e/ Ministries, ministerial-level agencies, provincial-level Peoples Committees may not promulgate documents determining domains banned from investment, conditional investment domains and investment preferences in violation of the provisions of law.

Article 72.- Powers and responsibilities of the Ministry of Planning and Investment

1. To assume the prime responsibility for, and coordinate with other ministries, branches and provincial-level Peoples Committees in, formulating and reviewing legal documents and policies on investment. To guide, disseminate, monitor and examine the implementation of legal documents on investment. To promulgate forms of documents related to investment procedures for nationwide application.

2. To organize and coordinate with other ministries, branches and localities in the formulation and synthesis for submission to the Government of development investment plannings and plans; a national master plan on development of industrial parks, export processing zones and economic zones.

3. To assume the prime responsibility for, and coordinate with other ministries, branches and provincial-level Peoples Committees in, drawing up a list of national projects calling for investment capital and submit it to the Prime Minister for approval; to give advice on the addition to the plannings of investment projects falling under the approving competence of the Prime Minister but not yet included in any planning; to give opinions to investment certificate-granting agencies on the necessity of investment projects falling within the approving competence of the Prime Minister and in domains that do not yet have any plannings for submission to the Prime Minister for approval.

4. To examine important national investment projects and other investment projects according to decisions of the Prime Minister.

5. To perform state management of investment promotion activities; to formulate programs and plans and organize the implementation of national programs on investment mobilization and promotion; to coordinate with other ministries, branches and provincial-level Peoples Committees in organizing investment promotion activities; to open investment promotion offices in foreign countries; to manage the national investment promotion fund.

6. To assume the prime responsibility for, and coordinate with other ministries and branches in, negotiating and submitting international agreements on investment activities to the Government for signing or accession; to perform international cooperation on investment activities.

7. To conduct professional training and retraining to enhance investment management capacity of investment state management agencies at all levels.

8. To coordinate with the General Office of Statistics in organizing the making of statistics on investment in accordance with the statistics law; to organize and build a national information system to serve investment activities.
9. To coordinate with other ministries, branches and localities in settling matters arising in the process of formation, preparation and execution of investment projects.
10. To assess socio-economic impacts of investment activities.
11. To examine, supervise and inspect investment activities according to its competence; to develop programs and plans on inter-branch examination and supervision of investment activities; to examine the grant, adjustment and revocation of investment certificates by investment certificate-granting agencies under the provisions of the Investment Law and this Decree; to examine and supervise the observance of plannings already approved by competent authorities in the course of investment.
12. Biannually and annually, to review the situation of investment activities and report it to the Prime Minister.

Article 73.- Powers and responsibilities of the Ministry of Finance

1. To assume the prime responsibility for, and coordinate with other ministries and branches in, formulating laws and policies on investment supports and preferences; to provide guidance on the order and procedures for enjoying investment supports and preferences within its competence.
2. To license projects in the domain within its competence; to examine, inspect and supervise activities of licensed projects.
3. To examine and give written opinions on matters related to finance and financial guarantee of the Government in investment projects within the approving competence of the Prime Minister and projects in conditional investment domains.
4. To examine, inspect and supervise the implementation of the finance, accounting, tax and customs laws in investment activities.
5. To assume the prime responsibility for, and coordinate with concerned ministries, branches and provincial-level Peoples Committees in, settling investors difficulties and problems in the domains of taxes, charges, fees, customs procedures, financial management and other financial activities.

Article 74.- Investment state management responsibilities and powers of the Ministry of Trade

1. To assume the prime responsibility for, and coordinate with other related ministries and branches in, formulating commercial laws and policies on investment activities.
2. To license projects in the domain within its competence; to examine, inspect and supervise activities of licensed projects.
3. To examine and give written opinions on matters related to commercial activities of investment projects within the approving competence of the Prime Minister and projects in conditional investment domains; to publicize investment-related conditions committed in treaties to which Vietnam is a contracting party.
4. To examine, inspect and supervise commercial activities related to investment activities.

5. To assume the prime responsibility for, and coordinate with concerned ministries, branches and provincial-level Peoples Committees in, settling difficulties and problems in commercial activities of investment projects.

Article 75.- Investment state management responsibilities and powers of the Ministry of Natural Resources and Environment

1. To assume the prime responsibility for, and coordinate with other related ministries and branches in, formulating laws and policies, and guiding the implementation of regulations on land management, ground clearance compensation, management of natural resources and environment related to investment activities.

2. To examine and give written opinions on matters related to land, ground clearance compensation, management of natural resources and environment in investment projects within the approving competence of the Prime Minister and projects in conditional investment domains.

3. To examine, inspect and supervise the implementation of regimes and policies on land, ground clearance compensation, management of natural resources and environment related to investment activities.

4. To assume the prime responsibility for, and coordinate with other ministries, branches and provincial-level Peoples Committees in, settling investors difficulties and problems in the domains of land, ground clearance compensation, extraction and use of natural resources and environmental protection.

Article 76.- Investment state management responsibilities and powers of the Ministry of Science and Technology

1. To assume the prime responsibility for, and coordinate with other related ministries and branches in, formulating laws and policies, and guiding the implementation of regulations on science and technology related to investment activities; to submit to the Prime Minister a master plan on development of hi-tech parks.

2. To examine and give written opinions on matters related to science and technology in investment projects within the approving competence of the Prime Minister and projects in conditional investment domains.

3. To examine, inspect and supervise the implementation of regimes and policies on science and technology related to investment activities.

4. To assume the prime responsibility for, and coordinate with concerned ministries, branches and provincial-level Peoples Committees in, settling investment projects difficulties and problems in the domain of science and technology.

Article 77.- Investment state management responsibilities and powers of the Ministry of Construction

1. To assume the prime responsibility for, and coordinate with other related ministries and branches in, formulating laws and policies, and guiding the implementation of regulations on construction.

2. To examine and give written opinions on matters related to state management of construction in investment projects within the approving competence of the Prime Minister and projects in conditional investment domains.

3. To examine, inspect and supervise the implementation of regimes, policies, standards and regulations on construction related to investment activities.
4. To assume the prime responsibility for, and coordinate with concerned ministries, branches and provincial-level Peoples Committees in, settling investment projects difficulties and problems in the domain of construction.

Article 78.- Investment state management responsibilities and powers of the State Bank of Vietnam

1. To assume the prime responsibility for, and coordinate with other related ministries and branches in, formulating laws and policies, and guiding the implementation of regulations on credit and foreign exchange management related to investment activities.
2. To license projects in the domain within its competence; to examine, inspect and supervise activities of licensed projects.
3. To examine and give written opinions on matters related to credit and foreign exchange management in investment projects within the approving competence of the Prime Minister and projects in conditional investment domains.
4. To examine, inspect and supervise the implementation of regimes and policies on credit and foreign exchange management related to investment activities.
5. To assume the prime responsibility for, and coordinate with concerned ministries, branches and provincial-level Peoples Committees in, settling investment projects difficulties and problems in the domain of credit and foreign exchange management.

Article 79.- Investment state management responsibilities and powers of branch-managing ministries

Ministries and ministerial-level agencies shall, within the scope of their respective tasks and powers, perform state management of investment in their assigned domains, specifically as follows:

1. To coordinate with the Ministry of Planning and Investment, related ministries and branches in formulating and promulgating laws and policies related to investment activities.
2. To assume the prime responsibility for, and coordinate with related ministries and branches in formulating and promulgating laws, policies and technical standards and regulations, and guide the implementation thereof.
3. To submit to the Government for promulgation investment conditions for conditional investment domains in econo-technical branches.
4. To formulate their branches plannings, plans and lists of projects calling for investment capital; to organize investment mobilization and promotion for their respective branches.
5. To publicize their branches plannings, plans, technical standards, investment conditions and lists of projects calling for investment capital.
6. To examine and give written opinions on the capability to meet conditions required for investment projects with respect to investment projects within the approving competence of the Prime Minister and projects in conditional investment domains.

7. To conduct specialized examination, inspection and supervision of the satisfaction of investment conditions and perform state management of investment projects within their respective competence.

8. To assume the prime responsibility for, and coordinate with provincial-level Peoples Committees and related ministries and branches in, settling investment projects difficulties and problems in the domains under their specialized management.

Article 80.- Investment state management responsibilities and powers of provincial-level Peoples Committees

1. On the basis of the socio-economic development plannings, to coordinate with related ministries and branches in drawing up and publicizing lists of local projects calling for investment; to organize mobilization and promotion of investment.

2. To assume the prime responsibility for organizing investment registration, examination, grant, adjustment and revocation of investment certificates, decide on early termination of operation of investment projects within their competence.

3. To perform state management of investment projects in their localities which are located outside industrial parks, export processing zones, hi-tech parks and economic zones according to the following principal contents:

a/ Monitoring, supervising and examining the realization of investment objectives indicated in investment certificates, the capital contribution and project execution progress; supervising and examining the fulfillment of financial obligations, labor relations, wages, the protection of legitimate rights and interests of laborers and labor users, activities of socio-economic organizations, and the protection of the ecological environment; assuming the prime responsibility for or joining ministries and branches in inspecting investment projects in their localities;

b/ Organizing ground clearance work; granting land use right certificates and supervising land use;

c/ Settling investors difficulties and problems; for those beyond their competence, reporting them to the Prime Minister or related ministries or branches for settlement;

d/ Evaluating the impacts of investment activities in their localities.

4. To direct the formulation of detailed plannings on the construction of industrial parks and export processing zones, and approve detailed plannings on the construction of industrial parks and export processing zones under the provisions of law on construction.

5. Quarterly, biannually and annually, to assume the prime responsibility for, and coordinate with the management boards in reviewing investment activities in their localities before reporting to the Ministry of Planning and Investment.

Article 81.- Investment state management responsibilities and powers of management boards of industrial parks, export processing zones, hi-tech parks and economic zones

1. To contribute opinions to ministries, branches and localities in the formulation of legal documents, policies and plannings related to investment activities and development of industrial parks, export processing zones, hi-tech parks and economic zones.

2. To register investment; to examine investment projects within their competence and grant, adjust and revoke investment certificates of these investment projects.
3. To examine, inspect and supervise the realization of investment objectives indicated in the investment certificates, the capital contribution and project execution progress; to coordinate in supervising and examining the observance of laws on labor and wages; the protection of legitimate rights and interests of laborers and labor users, activities of socio-economic organizations, and the protection of the ecological environment in investment projects in industrial parks, export processing zones, hi-tech parks and economic zones.
4. To settle difficulties and problems of investors in industrial parks, export processing zones, hi-tech parks and economic zones; for those beyond their competence, reporting them to the Prime Minister or related ministries, branches or provincial-level Peoples Committees for settlement.
5. To evaluate the impacts of investment activities in industrial parks, export processing zones and economic zones.
6. Quarterly, biannually and annually, to send reports on investment activities in industrial parks, export processing zones, hi-tech parks and economic zones to provincial-level Peoples Committees and the Ministry of Planning and Investment.

Article 82.- Organizational apparatus of management boards

1. The management board is a body managing industrial parks, export processing zones, hi-tech parks and economic zones within a province or centrally run city. It is established under decision of the Prime Minister at the proposal of the provincial-level Peoples Committee president and the Minister of Home Affairs; and submits to the direction and management by the provincial-level Peoples Committee in the management boards organization, payroll, work program and operation fund (unless otherwise stipulated by the Prime Minister).
2. The specialized trade, finance, customs agencies and other agencies, if necessary, shall arrange their representatives in industrial parks, export processing zones, hi-tech parks and economic zones to deal with matters under their respective management.
3. Specific functions, tasks and powers, organizational structure and operation regulation of management boards shall be decided by the Prime Minister.

Article 83.- State management of investment promotion

1. Investment promotion covers the following contents:
 - a/ Formulating strategies, plans and policies on attraction of domestic and foreign investment capital; creating conditions for mobilizing investment capital of all economic sectors;
 - b/ Implementing programs on propaganda, popularization, introduction and supply information on the investment environment, potential and opportunities;
 - c/ Organizing investment promotion establishments in Vietnam and foreign countries to mobilize, support and assist investors in understanding investment policies and laws and in selecting domains and locations for executing investment projects;
 - d/ Drawing up a list of national projects calling for investment capital and lists of projects calling for investment capital in branches and localities in conformity with the socio-economic development plannings and orientations in each period.

2. On the basis of strategies and plans on attraction of investment capital, investment state management agencies shall make annual investment promotion plans and send them to the Ministry of Planning and Investment for coordination in their implementation.

3. The investment promotion funds of state management agencies are allocated from the budget and comply with regulations and guidance of the Ministry of Finance.

Annually, ministries, ministerial-level agencies, government-attached agencies and provincial-level Peoples Committees shall formulate investment promotion plans and estimate funds for investment promotion activities.

The Ministry of Finance shall coordinate with the Ministry of Planning and Investment in guiding the estimation of funds for investment promotion activities and perform financial management of these activities.

Article 84.- Inspection of investment activities and handling of investment-related violations

1. The scope of investment inspection, organization and activities of investment inspection shall be as provided for in the Investment Law and the provisions of law on inspection of state management of investment and investment projects.

2. Acts in violation of investment law and the handling of investment-related violations shall be as provided for by law.

Article 85.- Settlement of disputes

The settlement of disputes over investment activities shall be as provided in Article 12 of the Investment Law and relevant laws.

Chapter VIII

IMPLEMENTATION PROVISIONS

Article 86.- Application of laws to investment projects executed before the Investment Law takes effect

1. For domestic investment projects that are executed before the Investment Law takes effect, investment registration or examination procedures are not required; an investor that wishes to have an investment certificate shall carry out registration procedures under the provisions of this Decree.

2. Foreign investment projects that are granted investment licenses before the Investment Law takes effect shall comply with the provisions of Article 88 of the Investment Law, Article 170 of the Enterprise Law and the Governments regulations on re-registration and transformation of foreign-invested enterprises.

Article 87.- Application of investment to foreign investors that establish private enterprises; investment in education, training, health and other domains affecting the public

Pursuant to the provisions of the Investment Law, this Decree and the enterprise law, the Prime Minister shall provide for investment in the establishment of private enterprises by foreign investors; payment of deposits and customers insurance for investment in education, training and health and other domains affecting the public.

Article 88.- Implementation provisions

1. This Decree takes effect 15 days after its publication in CONG BAO.

2. This Decree supersedes:

a/ Decree No. 24/2000/ND-CP of July 31, 2000, detailing the implementation of the Law on Foreign Investment in Vietnam; Decree No. 27/2003/ND-CP of March 19, 2003, amending and supplementing a number of articles of Decree No. 24/2000/ND-CP of July 31, 2000, detailing the implementation of the Law on Foreign Investment in Vietnam; and Decree No. 36/CP of April 24, 1997, promulgating the Regulation on industrial parks, export processing zones and hi-tech parks;

b/ Decree No. 51/1999/ND-CP of July 8, 1999, detailing the implementation of the Law on Domestic Investment Promotion (amended); Decree No. 35/2002/ND-CP of March 29, 2002, amending and supplementing Lists A, B and C included in the appendices to Decree No. 51/1999/ND-CP of July 8, 1999, detailing the implementation of the Law on Domestic Investment Promotion (amended);

c/ The list of domains and geographical areas entitled to investment preferences stipulated in Decree No. 164/2003/ND-CP of December 22, 2003, detailing the Law on Enterprise Income Tax; Decree No. 152/2004/ND-CP of August 6, 2004, amending and supplementing a number of articles of Decree No. 164/2003/ND-CP of December 22, 2003, detailing the Law on Enterprise Income Tax;

d/ The list of domains and geographical areas entitled to investment preferences stipulated in Decree No. 149/2005/ND-CP of December 8, 2005, detailing the implementation of the Law on Import Duty and Export Duty;

e/ Other regulations on investment contrary to this Decree.

3. Ministers, heads of ministerial-level agencies and government-attached agencies and presidents of provincial-level Peoples Committees shall, within the scope of their respective functions and tasks, guide and implement this Decree.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung

APPENDIX I

LIST OF SECTOR OF INVESTMENT PREFERENCES

(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22, 2006)

A. LIST OF SECTOR OF SPECIAL INVESTMENT PREFERENCES

I. MANUFACTURE OF NEW MATERIALS AND PRODUCTION OF NEW ENERGY; MANUFACTURE OF PRODUCTS OF HIGH TECHNOLOGY, OF BIO-TECHNOLOGY AND OF INFORMATION TECHNOLOGY; MECHANICAL MANUFACTURING

1. Manufacture of composite materials, light construction materials, precious and rare materials.
2. Manufacture of high-quality steel, alloys, special metal, porous iron and steel billet.
3. Investment in the construction of establishments using solar energy, wind energy, biogas, geothermic and tidal energy.
4. Production of medical equipment for analytical and extractive technology in the medical sector; orthopaedic equipment, specialized vehicles and equipment for the disabled.
5. Application of advanced technology, bio-technology for production of medicines for human use up to international GMP standard; production of antibiotic materials.
6. Production of computers, telecommunication and communication and Internet equipment and key information technology products.
7. Production of semi-conductors and hi-tech electronic components; production of software products, items of digital information; provision of services on software, research into information technology and training of human resources for information technology.
8. Investment in the production and manufacture of precision mechanical engineering equipment; equipment and machines for examination and control of industrial manufacturing safety; industrial robots.

II. BREEDING, REARING, GROWING AND PROCESSING AGRICULTURAL, FOREST AND AQUACULTURE PRODUCTS; SALT MAKING; PRODUCTION OF ARTIFICIAL STRAINS, NEW PLANT VARIETIES AND LIVESTOCK BREEDS

9. Afforestation, tending of forests.
10. Breeding, rearing and growing agricultural, forest and aquaculture products on uncultivated land, unexploited waters.
11. Fishery in offshore sea waters.
12. Production of artificial strains, new plant varieties and livestock breeds of high economic value.
13. Production, mining and refining of salt.

III. USE OF HIGH TECHNOLOGY AND MODERN TECHNIQUES; PROTECTION OF THE ECOLOGICAL ENVIRONMENT; RESEARCH, DEVELOPMENT AND NURSERY OF HIGH TECHNOLOGY

14. Application of high technology or new technology which has not yet been used in Vietnam; application of bio-technology.
15. Treatment of pollution and protection of environment; production of equipment for pollution treatment and equipment for observation and analysis of the environment.
16. Collection and treatment of wastewater, waste gas and solid waste; recycling or reuse of waste.

17. Research, development and nursery of high technology.

IV. LABOR INTENSIVE INDUSTRIES

18. Projects employing 5,000 or more employees on a regular basis.

V. CONSTRUCTION AND DEVELOPMENT OF INFRASTRUCTURES AND IMPORTANT PROJECTS

19. Investment in the construction and commercial operation of infrastructures of industrial parks, export processing zones, hi-tech parks and economic zones or important projects falling within the deciding competence of the Prime Minister.

VI. DEVELOPMENT OF EDUCATION, TRAINING, HEALTH CARE, PHYSICAL TRAINING AND SPORTS

20. Investment in the construction of facilities for treatment of tobacco or drug addiction.

21. Investment in the establishment of facilities for epidemic prevention and control.

22. Investment in the establishment of geriatric centers or centers for relief and care of the disabled and orphans.

23. Investment in the construction of centers of training for high-achievement sports, sport training for the disabled; the construction of sport facilities with training and competition equipment satisfying requirements for organization of international tournaments.

VII. OTHER MANUFACTURING AND SERVICE SECTORS

24. Investment in research and development (R & D) accounting for 25% or more of the revenue.

25. Salvage operations at sea.

26. Investment in the construction of apartment buildings for workers working in industrial parks, export processing zones, hi-tech parks and economic zones; investment in the construction of dormitories for students and of residential houses for social policy beneficiaries.

B. LIST OF SECTOR OF INVESTMENT PREFERENCES

I. MANUFACTURE OF NEW MATERIALS AND PRODUCTION OF NEW ENERGY; MANUFACTURE OF PRODUCTS OF HIGH-TECHNOLOGY, OF BIO-TECHNOLOGY OR OF INFORMATION TECHNOLOGY; MECHANICAL MANUFACTURING

1. Production of soundproof, electricity insulated or high heat-insulated materials; synthetic materials used as a substitute for wood; fire-proof materials; construction plastics; glass fiber; special-use cement.

2. Production of non-ferrous metals and refining of cast iron.

3. Production of molds and prototypes for metal and non-metal products.

4. Investment in the construction of new power plants, in power distribution and transmission.

5. Production of medical supplies and equipment, construction of warehouses for preservation of pharmaceutical products, reserves of medicines for human use in case of natural disasters and dangerous epidemics.

6. Production of equipment used for testing toxic substances in foodstuffs.

7. Development of the petrochemical industry.
8. Production of coke and active coal.
9. Production of plant protection drugs, pesticides, preventive and curative drugs for animals and aquatic creatures; veterinary drugs.
10. Materials for production of medicines or medicines for prevention or treatment of social diseases; vaccines; biological products; medicines produced from pharmaceutical materials; eastern medicines.
11. Investment in the construction of facilities for biological experiment, assessment of the availability of medicines; pharmaceutical establishments satisfying GMP standards in producing, preserving, testing, and carrying out clinical tests of medicines, planting, rearing or harvesting and processing of pharmaceutical materials.
12. Development of sources of pharmaceutical materials and production of medicines from pharmaceutical materials; projects for research or substantiation of scientific grounds for prescriptions for eastern medicines and formulation of standards for testing of prescriptions for eastern medicines; survey and statistics of types of pharmaceutical materials used for production of medicines; collection, inheritance and application of prescriptions for eastern medicines, finding, exploitation and use of new pharmaceutical materials.
13. Production of electronic appliances.
14. Production of machines, equipment and detail assemblies for the following sectors: oil and gas exploitation, mining, energy and cement; production of large-sized lifting equipment; production of machine tools for metal processing and metallurgy equipment.
15. Investment in the manufacture of high and medium voltage electric devices or generators of large capacity.
16. Investment in the production of diesel engines; investment in the repair or building of ships; equipment and spare parts for transportation ships and fishing ships; production of dynamic and hydraulic machinery and spare parts and compressing machines.
17. Production of equipment, vehicles and machinery for construction; technical equipment for the transportation sector; locomotives and carriages;
18. Investment in the manufacture of machine tools, machinery, equipment and components for agricultural and forest production; machinery for food processing; irrigation equipment.
19. Investment in the production of equipment, machinery for textiles, garments and leather industries.

II. BREEDING, REARING, GROWING AND PROCESSING OF AGRICULTURAL, FOREST AND AQUACULTURE PRODUCTS; SALT MAKING; PRODUCTION OF ARTIFICIAL STRAINS, NEW PLANT VARIETIES AND LIVESTOCK BREEDS

20. Growing of plants for pharmaceutical purposes.
21. Investment in post-harvest preservation of agricultural products, preservation of agricultural and aquaculture products and foodstuffs.
22. Production of bottled or canned fruit juices.

- 23. Production and refining of feed for cattle, poultry and aquatic resources.
- 24. Technical services for planting industrial and forest trees, husbandry, aquaculture, protection of plants and livestock.
- 25. Production, multiplication or crossbreeding for new plant varieties or livestock breeds.

ILL. USE OF HIGH TECHNOLOGY AND MODERN TECHNIQUES; PROTECTION OF THE ECOLOGICAL ENVIRONMENT; RESEARCH, DEVELOPMENT AND NURSERY OF HIGH TECHNOLOGY

- 26. Manufacture of equipment for responding to and dealing with oil spills.
- 27. Manufacture of equipment for waste treatment.
- 28. Investment in the construction of technical facilities and works: laboratories and experimental stations to apply new technology to production; investment in the establishment of research institutes.

IV. LABOR INTENSIVE INDUSTRIES

- 29. Projects regularly employing between 500 and 5,000 employees.

V. CONSTRUCTION AND DEVELOPMENT OF INFRASTRUCTURES

- 30. Construction of infrastructures serving production and business of cooperatives and life of communities in rural areas.
- 31. Investment in and commercial operation of infrastructures and investment in the production in industrial complexes, industrial spots, complexes of rural trade villages.
- 32. Construction of water plants and water supply systems for civil and industrial use; investment in the construction of water drainage systems.
- 33. Construction and upgrading of bridges, roads, terminals, airports, seaports, railway stations, bus stations and parking lots; establishment of new railway routes.
- 34. Construction of technical infrastructures of concentrated population areas in the geographical areas in Appendix II to this Decree.

VI. DEVELOPMENT OF EDUCATION, TRAINING, HEALTH CARE, PHYSICAL TRAINING, SPORTS AND NATIONAL CULTURE

- 35. Investment in the construction of infrastructures for education and training establishments; investment in the construction of people-founded and private schools and education and training establishments at the levels of pre-school education; general education, vocational high-school education and tertiary education.
- 36. Establishment of people-founded and private hospitals.
- 37. Construction: physical training or sport centers, training facilities and physical training and sports clubs; establishments for production, manufacture and repair of equipment, supplies and equipment for physical training and sports.
- 38. Establishment of national cultural houses; national dance, music and song troupes; theaters, film studios, cinemas; establishments for production, manufacture and repair of national musical

instruments; maintenance and preservation of museums, national cultural houses and culture and arts schools.

39. Investment in the construction of national tourist sites, ecological tourist sites and cultural parks for sports, entertainment and recreation activities.

VII. DEVELOPMENT OF TRADITIONAL TRADES AND OCCUPATIONS

40. Building up and development of traditional trades and occupations for production of fine-art and handicraft goods, processing of agricultural products and foodstuffs and cultural products.

VIII. OTHER MANUFACTURING AND SERVICE SECTORS

41. Provision of Internet connection, access and application services and points for accessing public telephones in areas in Appendix II to this Decree.

42. Development of mass transit including: transportation by ships, aircraft; railway transportation; road transportation of passengers by cars with 24 seats or more; transportation of passengers by modern and high-speed vehicles by inland waterway; container transportation.

43. Investment in the relocation of production establishments to non-urban areas.

44. Investment in the construction of class-I marketplaces and exhibition centers.

45. Production of childrens toys.

46. Activities in mobilizing capital and lending capital of peoples credit funds.

47. Legal consultancy, services of consultancy on intellectual property and technology transfer.

48. Production of various types of materials for production of pesticides.

49. Production of base chemicals, purified chemicals, special-use chemicals and dyes.

50. Production of materials for production of detergents and additives for the chemical industry.

51. Production of paper, cartons, artificial planks from domestic agricultural and forest materials; production of pulp.

52. Weaving and fashioning of textile products; production of silk and fibers of all types; tanning and processing of leather.

53. Investment projects on production activities in industrial parks established under decisions of the Prime Minister.

APPENDIX II

LIST OF GEOGRAPHICAL AREAS ENTITLED TO INVESTMENT PREFERENCES
(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22, 2006)

Ordinal number	Province	Areas with extremely difficult socio-economic conditions	Areas with difficult socio-economic conditions
1	Bac Kan	All districts and towns	
2	Cao Bang	All districts and towns	
3	Ha Giang	All districts and towns	

4	Lai Chau	All districts and towns	
5	Son La	All districts and towns	
6	Dien Bien	All districts and Dien Bien city	
7	Lao Cai	All districts	Lao Cai City
8	Tuyen Quang	Na Hang and Chiem Hoa districts	Ham Yen, Son Duong and Yen Son districts and Tuyen Quang town
9	Bac Giang	Son Dong district	Luc Ngan, Luc Nam, Yen The and Hiep Hoa districts
10	Hoa Binh	Da Bac and Mai Chau districts	Kim Boi, Ky Son, Luong Son, Lac Thuy, Tan Lac, Cao Phong, Lac Son and Yen Thuy districts
11	Lang Son	Binh Gia, Dinh Lap, Cao Loc, Loc Binh, Trang Dinh, Van Lang and Van Quan districts	Bac Son, Chi Lang and Huu Lung districts
12	Phu Tho	Thanh Son and Yen Lap districts	Doan Hung, Ha Hoa, Phu Ninh, Song Thao, Thanh Ba, Tam Nong and Thanh Thuy districts
13	Thai Nguyen	Vo Nhai anh Dinh Hoa districts	Dai Tu, Pho Yen, Phu Luong, Phu Binh and Dong Hy districts
14	Yen Bai	Luc Yen, Mu Cang Chai and Tram Tau districts	Tran Yen, Van Chan, Van Yen and Yen Binh districts and Nghia Lo town
15	Quang Ninh	Ba Che and Binh Lieu districts, Co To island district, islands and offshore islands under provincial authority	Van Don district
16	Hal Phong	Bach Long Vy and Cat Hal island districts	
17	Ha Nam		Ly Nhan and Thanh Liem districts
18	Nam Dinh		Giao Thuy, Xuan Truong, Hai Hau and Nghia Hung districts
19	Thai Binh		Thai Thuy and Tien Hai districts
20	Ninh Binh		Nho Quan, Gia Vien, Kim Son, Tam Diep and Yen Mo districts
21	Thanh Hoa	Muong Lat, Quan Hoa, Ba Thuoc, Lang Chanh, Thuong Xuan, Cam Thuy, Ngoc Lac, Nhu Thanh and Nhu Xuan districts	Thach Thanh and Nong Cong districts
22	Nghe An	Ky Son, Tuong Duong, Con Cuong, Que Phong, Quy Hop,	Tan Ky, Nghia Dan and Thanh Chuong districts

		Quy Chau and Anh Son districts	
23	Ha Tinh	Huong Khe, Huong Son and Vu Quang districts	Duc Tho, Ky Anh, Nghi Xuan, Thach Ha, Cam Xuyen and Can Loc districts
24	Quang Binh	Tuyen Hoa, Minh Hoa and Bo Trach districts	Other districts
25	Quang Tri	Huong Hoa and Dac Krong districts	Other districts
26	Thua Thien Hue	A Luoi and Nam Dong districts	Phong Dien, Quang Dien, Huong Tra, Phu Loc and Phu Vang districts
27	Da Nang	Hoang Sa island district	
28	Quang Nam	Dong Giang, Tay Giang, Nam Giang, Phuoc Son, Bac Tra My, Nam Tra My, Hiep Duc, Tien Phuoc and Nui Thanh districts and Cu Lao Cham island	Dai Loc and Duy Xuyen districts
29	Quang Ngai	Ba To, Tra Bong, Son Tay, Son Ha, Minh Long, Binh Son and Tay Tra districts and Ly Son island district	Nghia Hanh and Son Tinh districts
30	Binh Dinh	An Lao, Vinh Thanh, Van Canh, Phu Cat and Tay Son districts	Hoai An and Phu My districts
31	Phu Yen	Song Hinh, Dong Xuan, Son Hoa and Phu Hoa districts	Song Cau, Tuy Hoa and Tuy An districts
32	Khanh Hoa	Khanh Vinh and Khanh Son districts, Truong Sa island district and islands under provincial management	Van Ninh, Dien Khanh and Ninh Hoa districts and Cam Ranh town
33	Ninh Thuan	All districts	
34	Binh Thuan	Phu Quy island district	Bac Binh, Tuy Phong, Duc Linh, Thanh Linh, Ham Thuan Bac and Ham Thuan Nam districts
35	Dak Lak	All districts	
36	Gia Lai	All districts and towns	
37	Kon Tum	All districts and towns	
38	Dak Nong	All districts	
39	Lam Dong	All districts	Bao Loc town
40	Ba Ria - Vung Tau	Con Dao island district	Tan Thanh district
41	Tay Ninh	Tan Bien, Tan Chau, Chau Thanh and Ben Cau districts	Other districts

42	Binh Phuoc	Loc Ninh, Bu Dang and Bu Dop districts	Dong Phu, Binh Long, Phuoc Long and Chon Thanh districts
43	Long An		Duc Hue, Moc Hoa, Tan Thanh, Duc Hoa, Vinh Hung and Tan Hung districts
44	Tien Giang	Tan Phuoc district	Go Cong Dong and Go Cong Tay districts
45	Ben Tre	Thanh Phu, Ba Chi and Binh Dai districts	Other districts
46	Tra Vinh	Chau Thanh and Tra Cu districts	Cau Ngang, Cau Ke and Tieu Can districts
47	Dong Thap	Hong Ngu, Tan Hong, Tam Nong and Thap Muoi districts	Other districts
48	Vinh Long		Tra On district
49	Soc Trang	All districts	Soc Trang town
50	Hau Giang	All districts	Vi Thanh town
51	An Giang	An Phu, Tn Ton, Thoai Son, Tan Chau and Tinh Bien districts	Other districts
52	Bac Lieu	All districts	Bac Lieu town
53	Ca Mau	All districts	Ca Mau city
54	Kien Giang	All districts, islands and offshore islands under provincial management	Ha Tien and Rach Gia towns
	Other localities	Hi-tech parks and economic zones entitled to preferences under establishment decisions of the Prime Minister	Industrial parks established under decisions of the Prime Minister

APPENDIX III

LIST OF CONDITIONAL INVESTMENT DOMAINS APPLICABLE TO FOREIGN INVESTORS

(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22, 2006)

1. Broadcasting and television.
2. Production, publishing and distribution of cultural products.
3. Exploitation and processing of minerals.
4. Establishment of infrastructures for telecommunications networks, transmission and provision of Internet and telecommunications services.
5. Establishment of public postal networks and provision of postal services and delivery services.
6. Construction and operation of river ports, seaports, airports and airfields.
7. Transportation of goods and passengers by rail, air, land and sea and inland waterways.

8. Catching of marine resources.
9. Production of cigarettes.
10. Real estate business.
11. Investment in import, export and distribution.
12. Education and training.
13. Hospitals and clinics.
14. Other investment domains in treaties to which Vietnam is a contracting party and which restrict the opening of the market to foreign investors.

Investment conditions applicable to foreign investors with investment projects in the domains specified in this Appendix must conform with the provisions of treaties to which Vietnam is a contracting party.

APPENDIX IV

LIST OF DOMAINS BANNED FROM INVESTMENT

(Promulgated together with the Governments Decree No. 108/2006/ND-CP of September 22, 2006)

I. PROJECTS WHICH ARE DETRIMENTAL TO NATIONAL DEFENSE AND SECURITY AND PUBLIC INTERESTS

1. Production and processing of narcotics.
2. Investment in and commercial operation of secret investigation services infringing upon state interests, legitimate rights and interests of organizations and individuals.
3. Investment in the field of private detective and investigation.

II. PROJECTS WHICH ARE HARMFUL TO HISTORICAL AND CULTURAL RELICS, MORALITY AND VIETNAMESE FINE CUSTOMS

4. Projects on construction of works within the premises of national historical or cultural relics; projects adversely affecting the architecture and landscape of national historical cultural relics.
5. Production of depraved cultural or superstitious products.
6. Production of dangerous toys or toys which are harmful to personality education and health of children or security, social order and safety.
7. Prostitution business; trafficking of women and children.
8. Experiments of human cloning.

III. PROJECTS WHICH ARE HARMFUL TO THE PEOPLES HEALTH, OR WHICH DESTROY NATURAL RESOURCES AND THE ENVIRONMENT.

9. Production of schedule 1 chemicals (in accordance with the International Convention).
10. Production of veterinary drugs, plant protection drugs which are banned from use or are not permitted for use in Vietnam.

11. Production of medicines for human use, vaccines, medical biological products, cosmetics, chemicals and preparations used for killing insects or bacteria which are not permitted for use in Vietnam.

IV. PROJECTS ON TREATMENT OF HAZARDOUS WASTE BROUGHT FROM OVERSEAS INTO VIETNAM; PROJECTS ON MANUFACTURE OF TOXIC CHEMICALS OR ON USE OF TOXIC AGENTS PROHIBITED UNDER TREATIES

12. Projects on treatment of hazardous waste brought from overseas into Vietnam; projects on manufacture of toxic chemicals or on use of toxic agents prohibited under treaties to which Vietnam is a contracting party.

V. OTHER PROJECTS BANNED FROM INVESTMENT IN ACCORDANCE WITH LAW.-

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 118/2015/ND-CP

Hanoi, November 12, 2015

DECREE

GUIDELINES FOR SOME ARTICLES OF THE LAW ON INVESTMENT

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

Pursuant to the Law on Investment dated November 26, 2014;

Pursuant to the Law on Investment dated November 26, 2014;

At the request of the Minister of Planning and Investment,

The Government promulgates a Decree to provide guidelines for some Articles of the Law on Investment

Chapter I

GENERAL PROVISIONS

Article 1. Scope and regulated entities

1. This Decree elaborates and provides guidelines for some Articles of the Law on Investment on application, control, announcement of conditions for investment; measures for investment assurance, investment incentives; investment procedures, execution of investment projects, and management of investment by regulatory bodies.

2. This Decree applies to investors, competent authorities, organizations, and individuals involved in investment.

Article 2. Interpretation of terms

In this Circular, the terms below are construed as follows:

1. Valid copy means a copy extracted from the master register or a copy authenticated by a competent authority, or a copy that has been compared with the original, or a copy printed from the national database about residents, enterprise registration, and investment.

2. Vietnam's WTO Schedule of specific commitments in services (hereinafter referred to as "Vietnam's WTO Schedule of commitments") means the document No. WT/ACC/48/Add.2

dated October 27, 2006 of the Working Party on the Accession of Vietnam, including general commitments, commitments of sectors and sub-sectors, and list of MFN exemptions.

3. National Foreign Investment Web Portal means the web portal used to follow procedures for issuance, adjustment of the Investment Registration Certificate; posting and updating legislative documents, policies, investment conditions applied to foreign investors; updating and accessing information about investment promotion and foreign investment in Vietnam.

4. National Foreign Investment Database means a collection of information about foreign investment projects nationwide that is stored and managed in the National Foreign Investment Information System.

5. Incentive-applying authority means the authority having the power to apply tax incentives, land incentives, and other kinds of incentives prescribed by law.

6. Investment conditions applied to foreign investors are conditions that foreign investors must satisfy before making investment in the business lines subject to conditions applied to foreign investors specified in relevant Laws, Ordinances, Decrees, and international agreements on investment. Investment conditions applied to foreign investors are applied in the following cases:

- a) Investment in establishment of a business organization;
- b) Investment in the form of capital contribution, purchase of shares/stakes in a business organization;
- c) Investment in the form of a business cooperation contract;
- d) Receipt of an investment project;
- dd) Change or addition of business lines of a foreign-invested business organization.

7. Investment conditions are conditions that every organization and individual must satisfy when making investment in the business lines specified in Appendix 4 of the Law on Investment according to relevant Laws, Ordinances, Decrees, and international agreements.

8. International agreement on investment means an agreement to which Socialist Republic of Vietnam is a signatory which specifies rights and obligations of Socialist Republic of Vietnam to investment by investors from the nations that are signatories of the agreement. Such agreements include:

- a) Protocol on the accession of the Socialist Republic of Vietnam to WTO dated November 07, 2006;
- b) Bilingual agreements on encouragement and protection of investment;
- c) Other free trade agreements and regional economic integration agreements;

d) Other international agreements specifying rights and obligations of Socialist Republic of Vietnam to investment.

9. National Foreign Investment Information System is a system used for issuing, adjusting, revoking Investment Registration Certificates; sending, receiving, storing, displaying data to serve management of foreign investment by the State. National Foreign Investment Information System consists of: National Foreign Investment Web Portal, National Foreign Investment Database, National Investment Promotion Database, and infrastructure system.

10. Application for investment registration means an application compiled by an investor for issuance, adjustment, revocation of the Investment Registration Certificate, decision on investment guidelines, and following other investment procedures prescribed by the Law on Investment and this Decree.

11. A valid application means an application that contains sufficient documents specified in the Law on Investment, this Decree, and such documents contain sufficient information as prescribed by law.

12. The Law on Investment means the Law No. 67/2014/QH13 ratified by the National Assembly of the Socialist Republic of Vietnam on November 26, 2014.

13. The Law on Investment 2005 means the Law No. 59/2005/QH11 ratified by the National Assembly of the Socialist Republic of Vietnam on November 29, 2005.

14. Sectors and sub-sectors excluded from commitments are those specified in Vietnam's WTO Schedule of commitments and other international agreements on investment in which the Socialist Republic of Vietnam is entitled to regulate or not to regulate investment conditions, or prohibit foreign investors from making investments in such sectors and sub-sectors of services.

15. Investment capital of a project means the capital contributed by the investor and capital raised by the investor to execute the investment project written on the decision on investment guidelines and/or Investment Registration Certificate.

16. Rural area means an administrative division that does not include wards and districts in urban areas.

Article 3. Assurance of investment when law is change

1. Where a new legislative document promulgated by a competent authority changes investment incentives that have been applied to investors before such document comes into force, investors shall have their investment incentives guaranteed in accordance with Article 13 of the Law on Investment.

2. Guaranteed investment incentives mentioned in Clause 1 of this Article are incentives to which an investor is entitled according to legislative documents applicable before the effective date of the new legislative document, including:

a) Investment incentives specified in an Investment License, Business License, Investment Incentive Certificate, Investment Certificate, Investment Registration Certificate, decision on investment guidelines, or other documents issued by a competent authority;

b) Investment incentives to which the investor is entitled as prescribed by law other than those specified in Point a of this Clause.

3. When an investment assurance measure is needed as prescribed in Clause 4 Article 13 of the Law on Investment, the investor shall submit a written request to the investment registration authority together with the Investment License, Business License, Investment Incentive Certificate, Investment Certificate, Investment Registration Certificate, decision on investment guidelines, or other documents issued by a competent authority which specifies investment incentives (if any). The written request shall contain:

a) Name and address of the investor;

b) The investment incentives applicable before the effective date of the new legislative document, including: Types of incentives, conditions for receiving incentives, levels of incentives (if any);

b) The content of the new legislative document which changes the investment incentives mentioned in Point b of this Clause;

d) The investor's request for implementation of an investment incentive assurance measures specified in Clause 4 Article 13 of the Law on Investment.

4. The investment registration authority shall decide the implementation of investment incentive assurance measure within 30 days from the receipt of the valid application as set out in Clause 3 of this Article. The investment registration authority shall submit the cases beyond its competence to competent authority.

Article 4. Language of application for investment registration

1. The language of the application for investment registration, documents, and reports submitted to a competent authority shall be Vietnamese.

2. If the application has a document in a foreign language, the investor must enclose a valid Vietnamese translation to such document.

3. If a document in the application is written in both Vietnamese and a foreign language, the Vietnamese version shall be used to implement investment procedures.

4. The investor is responsible for any discrepancy between the translation or copy and the original, and between the copy in Vietnamese version and foreign language version.

Article 5. Codes of investment project

1. A code of an investment project is a 10-digit number automatically generated by National Foreign Investment Information System and written on the Investment Registration Certificate.
2. Each investment project has a single code which remains unchanged throughout the operation of the project and must not be given to another project. The code of an investment project expires when the investment project is shut down.
3. With regard to an investment project executed according to the Investment Certificate, Investment License, or another equivalent document, the code of the investment project is the number of the Investment Certificate, Investment License, or the equivalent document issued to the investment project. Where the Investment License, Investment Certificate, or the equivalent document is adjusted, the investment project will be issued with a new code as specified in Clause 1 of this Article.
4. Competent authority shall use codes of investment projects uniformly to manage and exchange information about investment projects.

Article 6. Rules for following investment procedures

1. When receiving an application for investment registration and resolving investment procedures, the investment registration authority shall assess the validity of the application. The investor is legally responsible for the legitimacy, accuracy, truthfulness of the application for investment registration and documents submitted to the competent authority.
2. The investment registration authority must not require the investor to submit any documents together with the application for investment registration other than those specified in the Law on Investment and this Decree.
3. When an application for investment registration needs to be supplemented, the investment registration authority shall send a written notification of necessary supplementations to the investor (applicant). The notification must specify the supplementations and reasons.
4. While following administrative procedures for investment, the enquired agencies shall make comments about the investment project by the deadline specified in the Law on Investment and this Decree. If an agency does not make any comments by the deadline, it is considered that it concurs with the content of the investment project under its management.
5. The competent authority shall send a written notification to the investor and provide explanation if the application for issuance/adjustment of the decision on investment guidelines, Investment Registration Certificate, or other investment procedures is rejected according to the Law on Investment and this Decree.
6. The investment registration authority and other regulatory bodies shall not settle disputes among investors and between investors and relevant entities during the course of investments.

Article 7. Addressing inaccurate, fraudulent documents

1. Where information provided in the application for investment registration is found inaccurate, within 05 working days from the day on which the valid application is received, the investment registration authority shall request the investor to remake it.
2. If there are grounds to determine that an investor use fraudulent documents in the application for issuance or adjustment of the Investment Registration Certificate, the investment registration authority shall make a notification of the investor's violations and invalidate the Investment Registration Certificate or cancel the adjustments to the Investment Registration Certificate which are based on fraudulent information and restore the original Investment Registration Certificate based on the latest valid application, and notify a competent authority.
3. The investor is responsible for the damage caused by provision of incorrect information or use of fraudulent documents.

Chapter II

BUSINESS LINES

Section 1. IMPLEMENTATION OF REGULATIONS ON BUSINESS LINES BANNED FROM INVESTMENT AND BUSINESS LINES SUBJECT TO CONDITIONS

Article 8. Implementation of regulations on business lines banned from investment

1. Organizations and individuals must not make investment in the business lines specified in Article 6 and Appendix 1 through 3 of the Law on Investment.
2. The manufacturing, use of products specified in Appendix 1 through 3 of the Law on Investment for analysis, testing, scientific study, healthcare, manufacture of pharmaceutical products, criminal investigation, national defense and security are specified below:
 - a) Permission for production and use of narcotic substances specified in Appendix 1 of the Law on Investment are specified in regulations of the Government on the list of narcotic substances and precursors, Single Convention on Narcotic Drugs 1961, and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988;
 - b) Permission for production and use of chemicals and minerals specified in Appendix 1 of the Law on Investment are specified in regulations of the Government management of controlled chemicals under Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, instructional documents of Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
 - c) Permission for the use of specimens of wild flora and fauna specified in Appendix 3 of the Law on Investment is specified in regulations of the Government on management of rare, endangered wild flora and fauna, and Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Article 9. Implementation of regulations on business lines subject to conditions and investment conditions

1. Individuals and business organizations may make investment in the business lines subject to conditions specified in Appendix 4 of the Law on Investment if all conditions are fulfilled and the fulfillment of such conditions is maintained throughout the course of business.

2. Investment conditions include:

- a) License;
- b) Certificate of eligibility;
- c) Practising certificate;
- d) Certificate of professional liability insurance;
- dd) Written certification;
- e) Documents other than those specified in Point a through dd of this Clause;
- g) Conditions that must be fulfilled to make investment without the written certification or approval specified in Point a through e of this Clause.

3. Every individual or organization that fulfills investment conditions is entitled to the documents specified in Point a through e Clause 2 of this Article (hereinafter referred to as licenses) or to make investment and do business when the conditions specified in Point g Clause 2 of this Article are fulfilled. If the issuance, renewal, adjustment, or supplementation of a license is rejected, the competent authority must send a written notification to the applicant and provide explanation.

4. While following administrative procedures for issuance of a license or fulfilling the conditions specified in Point g Clause 2 of this Article, it is not required to write the business lines subject to conditions on the Certificate of Enterprise Registration.

Article 10. Implementation of regulations on investment conditions applied to foreign investors

1. Investment conditions applied to foreign investors mentioned in Clause 6 Article 2 of this Decree include:

- a) Ratio of the foreign investor's charter capital in a business organization;
- b) Investment method;
- d) Scope of investment;

d) Vietnamese partners participating in the investment;

Other conditions specified in Laws, Ordinances, Decree, and international agreements on investment.

2. Rules for applying investment conditions to foreign investors

a) A foreign investor that makes investment in various business lines must fulfill all conditions applied to these business lines;

b) A foreign investor that is regulated by international agreements on investment that provide for different investment conditions may apply the investment conditions provided for in one of such international agreements and must fulfill the foreign investor's rights and obligations under the selected international agreement.

c) With regard to sectors and sub-sectors excluded from commitments or not specified in Vietnam's WTO Schedule of commitments and other international agreements on investment, if investment conditions applied to foreign investors are already provided for in Vietnam's law, such Vietnam's law shall apply;

d) Where a foreign investor in a territory that is not a WTO member makes investment in Vietnam, such investor shall apply the same investment conditions as investors in WTO members, unless otherwise prescribed by law and international agreements between Vietnam and such WTO members;

dd) With regard to sectors and sub-sectors excluded from commitments or not specified in Vietnam's WTO Schedule of commitments and other international agreements on investment, if investment conditions applied to foreign investors are also not provided for in Vietnam's law, the investment registration authority shall consult with the Ministry of Planning and Investment and relevant Ministries;

e) Where a foreign investor permitted to make investment in the service sectors and sub-sectors specified in Point dd of this Clause and they have been posted on National Foreign Investment Web Portal specified in Article 13 of this Decree, the investment registration authority shall consider deciding foreign investors' investment in the same business lines without consulting with Ministries.

Article 11. Application of investment conditions and procedures to investors holding both Vietnamese and foreign nationality

1. With regard to investments made in Vietnam, an investor holding both Vietnamese and foreign nationality may decide whether to apply investment conditions and procedures applied to Vietnamese investors or foreign investors.

2. If investment conditions and procedures applied to Vietnamese investors are selected, the investor mentioned in Clause 1 of this Article does not have the rights and obligations of a foreign investor.

Section 2. CONTROL AND PUBLISHING OF INVESTMENT CONDITIONS AND INVESTMENT CONDITIONS APPLIED TO FOREIGN INVESTORS

Article 12. Publishing of investment conditions

1. The Ministry of Planning and Investment shall take charge and cooperate with other Ministries and ministerial agencies in reviewing and aggregating investment conditions to be published on National Enterprise Registration Portal.

2. Investment conditions to be published as set out in Clause 1 of this Article include:

- a) The business lines subject to conditions specified in Appendix 4 of the Law on Investment;
- b) The basis for applying investment conditions to the business lines specified in Point a of this Clause;
- c) Conditions that must be fulfilled to make investment specified in Clause 2 Article 9 of this Decree.

3. Where investment conditions are changed according to a Law, Ordinance, or Decree, they shall be updated as follows:

- a) Within 05 working days from the day on which the Law, Ordinance, or Decree is promulgated, the relevant Ministry or ministerial agency shall send a written request for update of investment conditions on National Enterprise Registration Portal to the Ministry of Planning and Investment;
- b) Within 03 working days from the day on which the aforementioned request is received, the Ministry of Planning and Investment shall update the investment conditions or changes to investment conditions on National Enterprise Registration Portal.

Article 13. Publishing of investment conditions applied to foreign investors

1. The Ministry of Planning and Investment shall take charge and cooperate with other Ministries and ministerial agencies in reviewing and aggregating investment conditions applied to foreign investors according to Laws, Ordinances, Decrees, and international agreements on investors, and sectors and sub-sectors specified in Point e Clause 2 Article 10 of Decree in order to publish them on National Foreign Investment Web Portal.

2. Investment conditions applied to foreign investors to be published as set out in Clause 1 of this Article include:

- a) Business lines subject to conditions applied to foreign investors;
- b) Basis for application for investment registration to foreign investors;
- c) Contents of investment conditions applied to foreign investors as set out in Clause 1 Article 10 of this Decree;
- d) The sectors and sub-sectors specified in Point e Clause 2 Article 10 of this Decree.

3. The Investment conditions specified in Clause 2 of this Article shall be updated in the following cases:

- a) Investment conditions applied to foreign investors are changed according to a Law, Ordinance, Decree, or international agreement on investment;
- b) The sectors and sub-sectors specified in Point e Clause 2 Article 10 of this Decree shall be adjusted according to the review result specified in Clause 1 of this Article.

4. The updates mentioned in Clause 3 of this Article shall be published on National Foreign Investment Web Portal following the procedures specified in Clause 3 Article 12 of this Decree.

Article 14. Proposal for changes or addition of business lines subject to conditions and investment conditions

1. In consideration of socio-economic development, state management requirements at that time, and international agreements on investment, Ministries and ministerial agencies shall submit proposals for changes or addition of business lines subject to conditions or investment conditions to the Government.

2. Apart from regulations of law on promulgation of legislative documents the proposal for changes or addition of business lines subject to conditions or investment conditions shall specify:

- a) The business lines subject to conditions or investment conditions to be changed or added;
- b) Necessity, purpose of the changes or addition of business lines subject to conditions or investment conditions according to Clause 1, Clause 3, and Clause 4 Article 7 of the Law on Investment;
- c) The basis for the changes or addition of business lines subject to conditions or investment conditions, and subjects of such conditions;
- d) The rationality, feasibility of the changes or addition of business lines subject to conditions or investment conditions, and conformity with international agreements on investment;

dd) Assessment of impacts of the changes or addition of business lines subject to conditions or investment conditions on state management works and investment by the subjects of such conditions.

3. Ministries, ministerial agencies shall consult with the Ministry of Planning and Investment about the proposal mentioned in Clause 2 of this Article during the process of reviewing, approving the proposal for formulation of the Law, Ordinance, Decree in accordance with regulations of law on promulgation of legislative documents.

Article 15. Review, assessment of implementation of regulations on business lines subject to conditions

1. Annually and on demand, Ministries and ministerial agencies shall review, assess the implementation of regulations on business lines subject to conditions and investment conditions under their management.

2. Review and assessment content:

a) Assess the implementation of regulations of law on to business lines subject to conditions and investment conditions under their management at the time of review, assessment;

b) Assess the impacts and effectiveness of regulations on business lines subject to conditions and investment conditions; difficulties that arise during the course of implementation;

c) Assess the socio-economic changes, technological changes, management requirements, and other conditions that affect the implementation of regulations on business lines subject to conditions and investment conditions (if any);

d) Propose amendments to regulations on business lines subject to conditions and investment conditions (if any);

3. Ministries and ministerial agencies shall send their proposals to the Ministry of Planning and Investment for consolidation and reporting to the Prime Minister.

Chapter III

INVESTMENT INCENTIVES AND INVESTMENT ASSISTANCE

Section 1. INVESTMENT INCENTIVES

Article 16. Entities eligible for investment incentives and rules for applying investment incentives

1. The entities eligible for investment incentives specified in Clause 2 Article 15 and Article 16 of the Law on Investment include:

- a) Investment projects in business lines eligible for investment incentives or special investment incentives specified in Appendix I of this Decree;
- b) Investment projects in region of socio-economic difficulties or region of exceptional socio-economic difficulties in Appendix II of this Decree;
- c) Any investment project whose capital is VND 6,000 billion or over, at least VND 6,000 billion is disbursed within 03 years from the issuance date of the Investment Registration Certificate or the decision on investment guidelines (if the project is not required to obtain an Investment Registration Certificate);
- d) Any investment project in a rural area which employs 500 workers or more (not including part-time workers and workers whose employment contracts are shorter than 12 months);
- dd) High technology enterprises, science and technology enterprises, science and technology organizations defined by regulations of law on high technology, science and technology.

2. Rules for applying investment incentives:

- a) Investment projects specified in Point c Clause 1 of this Article are eligible for the same investment incentives as investment projects in region of exceptional socio-economic difficulties;
- b) Investment projects specified in Point d Clause 1 of this Article are eligible for the same investment incentives as investment projects in region of socio-economic difficulties;
- C) Investment projects in business lines eligible for investment incentives in region of socio-economic difficulties are eligible for the same investment incentives as investment projects in extremely disadvantaged areas;
- d) an investment project that is eligible for various levels of investment incentive may apply the highest level;
- dd) Corporate income tax (CIT) incentives for investment projects in industrial parks, export-processing zones specified in Section 55 of Appendix II to this Decree shall comply with regulations of law on CIT;
- e) Land rent incentives in industrial parks, export-processing zones specified in Section 55 of Appendix II to this Decree do not apply to investment projects in industrial parks and export-processing zones in urban districts of special class and class I central affiliated cities, and class I provincial cities.

Article 17. Procedures for applying investment incentives

- 1. Investment incentives written on an Investment Registration Certificate or decision on investment guidelines include:

- a) The entity eligible for investment incentives as set out in Article 16 of this Decree;
 - b) The basis for application of investment incentives according to regulations of law on taxes and land.
2. The investor in an investment project required to obtain an Investment Registration Certificate or decision on investment guidelines shall receive investment incentives according to the investment incentives on the Investment Certificate or decision on investment guidelines. The basis for applying investment incentives to science and technology enterprises is the Certificate of Science and Technology Enterprise.
3. Investors in projects other than those specified in Clause 2 of this Article shall determine their investment incentives and follow procedures for receiving investment incentives at incentive-applying authorities according to Clause 1 Article 16 of this Decree and relevant regulations of law.
4. Investment incentives are adjusted in the following cases:
- a) Where an investment project satisfies conditions for receiving additional investment incentives, the investor shall receive them for the remaining incentive period;
 - b) The investor shall not receive incentives written on the Investment Registration Certificate or decision on investment guidelines if the project fails to satisfy conditions for investment incentives specified in the Investment Registration Certificate or decision on investment guidelines. Where the project satisfies conditions for other investment incentives, the investor shall receive such incentives;
 - c) Where an investment project fails to satisfy conditions for investment incentives for a certain period of time, the investor shall not receive such incentives over such period.
5. A new business organization or a business organization executing an investment project derived from a corporate conversion, ownership transfer, division, acquisition, consolidation, or investment project transfer shall inherit the investment incentives to which the investment project is entitled before the conversion, division, acquisition, consolidation, or transfer.

Section 2. INVESTMENT ASSISTANCE FOR INDUSTRIAL PARKS, EXPORT-PROCESSING ZONES, HI-TECH ZONES, ECONOMIC ZONES

Article 18. Assistance in construction of infrastructure of industrial parks and export-processing zones

1. The scope, subjects, principles, criteria, limits of investment assistance from central government budget for construction of infrastructure of industrial parks and export-processing zones in region of socio-economic difficulties or region of exceptional socio-economic difficulties shall comply with the applicable Industrial Park Infrastructure Investment Target Program.

2. The People's Committees of provinces shall balance their budgets to provide assistance for investors in development of infrastructure inside and outside industrial parks and export-processing zones.

Article 19. Assistance in development technical and social infrastructure of economic zones and hi-tech zones

1. State budget shall provide funding for assistance in:

a) Development of technical and social infrastructure in hi-tech zones; development of technical and social infrastructure, and important public facilities in economic zone;

b) Land clearance and compensation, demining in hi-tech zones and specialized areas of economic zones;

c) Land clearance and compensation, construction of technical and social infrastructure of housing areas for workers and relocation areas for people whose land in economic zones and hi-tech zones is withdrawn;

d) Investor in construction of concentrated solid waste treatment zone and concentrated sewage treatment systems that meet environmental standards of hi-tech zones and specialized areas in economic zones.

2. Apart from the types of assistances specified in Clause 1 of this Article, hi-tech zones shall receive other incentives for investment in development of technical infrastructure as specified in regulations of law on hi-tech zones.

3. The Prime Minister shall decide policies on development of housing in hi-tech zones.

Article 20. Investment in technical infrastructure in industrial parks and export-processing zones

1. Investment in operation of technical infrastructure of an industrial park or export-processing zone must conform to detailed construction planning of the industrial park or export-processing zone which is approved by a competent authority.

2. With regard to a region of socio-economic difficulties, depending on its conditions, the People's Committee of the province shall request the Prime Minister to establish or appoint a revenue-earning public service agency as an investor in the project for construction and operation of technical infrastructure or the industrial park or export-processing zone.

Chapter IV

MAKING INVESTMENT

Section 1. GENERAL REGULATIONS ON EXECUTION OF INVESTMENT PROJECTS

Article 21. Responsibility to publish and provide information about investment projects

1. Investment registration authorities, planning, resources, and environment authorities, and other regulatory bodies shall make publicly available the planning and list of investment projects in accordance with law.
2. Where an investor requests information about the planning or list of investment project and other information related to investment projects, the authorities mentioned in Clause 1 of this Article shall provide information within their competence for such investor within 05 working days from the receipt of the investor's request.
3. Investors are entitled to use information mentioned in Clause 1 and Clause 2 of this Article to compile their investment applications.

Article 22. Procedures for execution of investment projects

1. Depending on the characteristics, scale, and conditions of each project, it shall be executed under one of some procedures below:
 - a) Obtain a decision on investment guidelines, Investment Registration Certificate in accordance with the Law on Investment and this Decree;
 - b) Establish a business organization according to Article 44 of this Decree (for foreign investors making investment by establishing business organizations);
 - c) Follow procedures for land allocation, land lease/sublease, land repurposing in accordance with regulations of law on land (if any);
 - d) Follow construction procedures in accordance with regulations of law on construction (if any).
2. The investor that is the successful bidder for the land use right or for an investment project using land shall execute the investment project in accordance with the decision on approval for bidding result or decision on approval of investor selection result and regulations of law on investment, construction, and relevant regulations of law without having to obtain a decision on investment guidelines.

Article 23. Following investment procedures on National Foreign Investment Information System

1. Before following procedures for issuance or adjustment of the Investment Registration Certificate, the investor shall provide information about the investment project on National Foreign Investment Information System. Within 15 days from the day on which information is

provided, the investor shall submit an application for issuance or adjustment of the Investment Registration Certificate to the investment registration authority.

2. After the application is received by the investment registration authority, the investor shall be given an account to access National Foreign Investment Information System to monitor the application processing.

3. The investment registration authority shall use National Foreign Investment Information System to receive, process applications, and return results, update the processing, and issue project codes.

4. In case National Foreign Investment Information System is inaccessible, investment registration authority shall issue the Investment Registration Certificate under backup procedures below:

a) The investment registration authority shall receive the physical application and request the Ministry of Planning and Investment to issue a code to the investment project. Within 02 days from the day on which the request is received, the Ministry of Planning and Investment shall issue the project code and notify the investment registration authority;

b) Within 05 days from the day on which the Investment Registration Certificate is issued under the backup procedures, the investment registration authority shall update information about the project on National Foreign Investment Information System.

Article 24. Mechanism for cooperating in resolving procedures for investment and enterprise registration for foreign investors

1. Apart from procedures for issuance of the Investment Registration Certificate and enterprise registration specified in the Law on Investment, this Decree, and regulations of law on enterprises, foreign investors may follow these procedures at a single unit in the following order:

a) The investor shall the application for investment registration and application for enterprise registration to the investment registration authority;

b) Within 01 working days from the day on the applications are received, the investment registration authority shall send the application for enterprise registration to the business registration authority;

c) Within 02 working days from the day on the application for enterprise registration is received, the business registration authority shall assess its validity and send a notification to the investment registration authority;

d) If the application for investment registration or application for enterprise registration needs adjusting or supplementing, the investment registration authority shall send a single notification to the investor within 05 working days from the day on which the applications are received;

dd) According to the application for investment conditions and application for enterprise registration received, the investment registration authority and business registration authority shall cooperate in processing them and return the result to the investor at the investment registration authority.

2. The Ministry of Planning and Investment shall provide guidance on following the procedures specified in Clause 1 of this Article and other procedures that require cooperation between the investment registration authority and business registration authority.

Article 25. Procedures for obtaining opinions about investment projects required to have decisions on investment guidelines

1. During the process of assessing a project before issuing a decision on investment guidelines, the Ministry of Planning and Investment and the investment registration authority shall consult with other competent authorities about the content of the projects under their management. 2. A competent authority shall not reconsider the issues appraised and approved previously by other competent authorities.

3. If the project is intended to be executed against the planning approved by a competent authority, the investment registration authority shall consult with the planning authority in order to request a decision on investment guidelines.

4. With regard to projects of foreign investors that use land in islands, bordering communes, or coastal communes which are subject to decision on investment guidelines for the People's Committee of the provinces, the investment registration authority shall consult with relevant authorities in accordance with regulations of law on land while following procedures for obtaining the decision on investment guidelines, except for investment projects in industrial parks, export-processing zones, hi-tech zones, economic zones that are conformable with planning approved by competent authority.

Article 26. Procedures for execution of investment projects

1. During the process of execution of an investment project, the investor shall comply with regulations of law on investment, construction, land, environmental protection, employment, and relevant regulations of law.

2. With regard to an investment project executed under the Investment Registration Certificate or decision on investment guidelines, the investor shall execute it in accordance with the Investment Registration Certificate or decision on investment guidelines and relevant regulations of law.

3. The investor shall report investment activities in accordance with the Law on Investment, this Decree, and relevant regulations of law; provide documents and information related to investment inspection and supervision for competent authorities as prescribed by law.

Article 27. Performance security

1. The investor must pay a deposit when receiving land, leasing land, or permitted to repurpose land by the State to execute the investment project, except for the following cases:

a) The investor is the successful bidder for land use right to execute the investment project and receives levied land from the State or leases land from the State and pay a lump sum rent for the entire lease term;

b) The investor is a successful bidder for an investment project using land according to regulations of law on bidding;

c) The investor receives land or lease land from the State on the basis of transfer of an investment project has paid the deposit of completely contributed capital and/or raised capital according to the schedule specified in the Investment Registration Certificate or decision on investment guidelines;

d) The investor receives land or leases land from the State to execute an investment project on the basis of receipt of land use right or property on land of another land user;

dd) The investor is a revenue-earning public service agency, a hi-tech zone development company established under a decision of a competent authority to execute investment projects that receive land or lease land from the State to develop infrastructure of industrial parks, export-processing zones, hi-tech zones, specialized areas in economic zones.

2. The deposit mentioned in Clause 1 of this Article shall be paid under a written agreement between the investment registration authority and the investor after a decision on investment guidelines is issued and before the time of land transfer, land lease, or land repurposing. If the investment project is not required to have a decision on investment guidelines, the time for paying the deposit is the time of land transfer, land lease, or land repurposing.

3. The deposit is a progressive percentage of the project capital written on the decision on investment guidelines or Investment Registration Certificate. To be specific:

a) If the capital does not exceed VND 300 billion, the deposit is 3%;

b) The deposit on the amount of capital in surplus of VND 300 billion but not exceeding VND 1,000 billion is 2%;

c) The deposit on the amount of capital in surplus of VND 1,000 billion is 1%.

4. Capital of the project mentioned in Clause 3 of this Article does not include land levy or land rent payable to the State and the cost of construction of public works of the project. If the project receives land or leases land from the State in stages, the deposit shall depend on the capital of the project in each stage.

5. The deposit shall be paid to the account of the investment registration authority a Vietnamese commercial bank selected by the investor. The investor shall incur the cost of opening, maintaining the deposit account, and making transactions related to the deposit account.

6. The investor shall receive a deposit reduction in the following cases:

a) 25% reduction of deposit for investment projects in business lines eligible for investment incentives; investment projects in region of socio-economic difficulties, investment projects in industrial parks and export-processing zones, including projects for construction and operation of infrastructure in industrial parks and export-processing zones;

b) 50% reduction of deposit for investment projects in business lines eligible for special investment incentives; investment projects in region of exceptional socio-economic difficulties, investment projects in business lines eligible for investment incentives located in disadvantaged areas; investment projects in hi-tech zones and economic zones, including projects for construction and operation of infrastructure in hi-tech zones and economic zones;

7. The investor that has advanced the payment for land clearance and relocation may delay paying the amount of deposit equal to the advance payment for land clearance and relocation.

8. The investor shall receive refund of the deposit as follows:

a) 50% of the deposit shall be returned when the investor completes procedures for land transfer, land lease, or land repurposing and obtain other licenses/approvals to commence the construction (if any) according to the schedule on the Investment Registration Certificate or decision on investment guidelines;

b) The remaining deposit and interest on which (if any) shall be returned when the investor accepts the construction and installation for the project to be inaugurated according to the schedule on the Investment Registration Certificate or decision on investment guidelines;

c) Where the project capital is decreased, the investor shall receive a refund of an amount of deposit which is equal to the decrease in capital according to the adjusted Investment Registration Certificate or adjusted decision on investment guidelines;

d) Where the execution of an investment project cannot be continued because of a force majeure event or on account of a competent authority while following administrative procedures, the investor may claim the refund of the deposit under an agreement of the investment registration authority.

9. The deposit shall be transferred to state budget except for the cases specified in Clause 8 of this Article.

10. Where adjustments to an investment project also change the deposit conditions, the investment registration authority and the investor shall reach an agreement on deposit adjustment in accordance with provisions of this Article.

Section 2. PROCEDURES FOR ISSUANCE OF DECISION ON INVESTMENT GUIDELINES, INVESTMENT REGISTRATION CERTIFICATE

Article 28. The power to receive applications, issue, adjust, and revoke Investment Registration Certificates

1. The Department of Planning and Investment of each province shall receive applications, issue, adjust, and revoke Investment Registration Certificates of:

- a) Investment projects outside industrial parks, export-processing zones, hi-tech zones, and economic zones;
- b) Projects of investment in development of infrastructure of industrial parks, export-processing zones, hi-tech zones, and investment projects in industrial parks, export-processing zones, and hi-tech zones in areas without management boards of industrial parks, export-processing zones, and hi-tech zones.

2. Management boards of industrial parks, export-processing zones, hi-tech zones, and economic zones shall receive applications, issue, adjust, revoke Investment Registration Certificates of investment projects therein, including:

- a) Projects of investment in development of infrastructure of industrial parks, export-processing zones, and hi-tech zones;
- b) Investment projects executed within industrial parks, export-processing zones, hi-tech zones, and economic zones.

3. The Department of Planning and Investment of the province in which the investor's premises or offices are located or intended to be located shall receive applications, issue, adjust, revoke Investment Registration Certificates of:

- a) Any investment project that is executed in more than one province;
- b) Any investment project executed both inside and outside an industrial park, export-processing zone, hi-tech zone, or economic zone.

4. The authorities specified in Clause 1 through 3 of this Article have the power to adjust and revoke the Investment Licenses, Investment Incentive Certificates, Investment Certificates, and equivalent documents issued to investors before the effective date of the Law on Investment.

Article 29. Procedures for issuance of Investment Registration Certificate to investment project that is not required to have a decision on investment guidelines

1. The investor shall submit 01 application for investment registration specified in Clause 1 Article 33 to the investment registration authority.

2. If the investment project is being executed, the project proposal in the application mentioned in Clause 1 of this Article shall be replaced with a report on project execution for the period from the beginning of the project execution to the submission of the application for the Investment Registration Certificate.

3. The investment registration authority shall issue the Investment Registration Certificate within 15 days from the receipt of the valid application as set out in Clause 1 of this Article if the conditions below are satisfied:

- a) The project does not involve the business lines banned from investment;
- b) The project satisfied conditions applied to foreign investors specified in Clause 1 Article 10 of this Decree (if any).

Article 30. Procedures for issuance of Investment Registration Certificates to investment projects whose decisions on investment guidelines are issued by the People's Committees of provinces

1. Investment projects whose decisions on investment guidelines are issued by the People's Committees of provinces are specified in Article 32 of the Law on Investment.

2. The investor shall submit 04 sets of application for investment registration specified in Clause 1 Article 33 of the Law on Investment to the investment registration authority of the administrative division in which the project is intended to be located.

3. The investment registration authority shall consult with other competent authorities about the content of the project under their management, including:

- a) Conformity of the project with overall planning for socio-economic development, sector development planning, and land-use planning;
- b) Land use demand, conditions for land transfer, land lease, land repurposing (if the project receives or leases land from the State, or is permitted to repurpose land);
- c) Investment conditions applied to foreign investors (if the project involves multiple business lines subject to conditions applied to foreign investors);
- d) Investment incentives and conditions for receiving them (if the project is eligible for such investment incentives);
- dd) Technologies used by the project (if the project uses technologies restricted from transfer according to regulations of law on technology transfers specified in Point b Clause 1 Article 32 of the Law on Investment).

4. Procedures and content of decisions on investment guidelines issued by the People's Committees of provinces are specified in Clause 2 through 8 Article 33 of the Law on Investment.

5. Within 25 days from the receipt of the valid application as set out in Clause 2 of this Article, the investment registration authority shall make and submit a review report to the People's Committee of the province. Within 07 working days from the receipt of the review report, the People's Committee of the province shall consider issuing the decision on investment guidelines.

6. Within 05 working days from the receipt of the decision on investment guidelines from the People's Committee of the province, the investment registration authority shall issue the Investment Registration Certificate to the investor.

7. With regard to a project that receives land or leases land from the State without bidding, receives a land use right or property on land, or requires land repurposing specified in Point a Clause 1 Article 32 of the Law on Investment and is executed in an industrial park, export-processing zone, hi-tech zone, or economic zone in conformity with the planning approved by a competent authority, the investment registration authority shall consult with relevant authorities in order to issue the Investment Registration Certificate within 25 days from the day on which the valid application is received without having to request the People's Committee of the province to issue a decision on investment guidelines.

Article 31. Procedures for issuance of Investment Registration Certificates to investment projects whose decisions on investment guidelines are issued by the Prime Minister

1. Investment projects whose decisions on investment guidelines are issued by the Prime Minister are specified in Article 31 of the Law on Investment.

2. The investor shall submit 08 sets of application for investment conditions specified in Clause 1 Article 34 of the Law on Investment to the investment registration authority of the administrative division in which the project is intended to be located.

3. Within 03 working days from the receipt of the valid application as set out in Clause 2 of this Article, the investment registration authority shall send 02 sets to the Ministry of Planning and Investment and one set to each competent authority related to the investment project to receive comments about the issues specified in Clause 3 Article 30 of this Article.

4. Within 15 days from the day on which the request of the investment registration authority is received, the authorities mentioned in Clause 3 of this Article shall send the Ministry of Planning and Investment their comments about the issues within their management.

5. Within 25 days from the receipt of the valid application as set out in Clause 2 of this Article, the investment registration authority shall request the People's Committee of the province to consider and send comments about the following issues to the Ministry of Planning and Investment:

b) Land use demand, conditions for land transfer, land lease, land repurposing (if the project receives or leases land from the State, or is permitted to repurpose land);

b) Plan for land clearance, relocation (if any) if the project receives or leases land from the State, or is permitted to repurpose land;

c) Other issues within the competence of the People's Committee of the province (if any).

6. Within 15 days from the receipt of the comments from the People's Committee of the province, the Ministry of Planning and Investment shall make and submit a review report which contains the information specified in Clause 6 Article 33 of the Law on Investment to the Prime Minister for issuance of a decision on investment guidelines.

7. Within 07 working days the receipt of the review report, the Ministry of Planning and Investment and the Prime Minister shall issue a decision on investment guidelines which contain the information specified in Clause 8 Article 33 of the Law on Investment. The decision on investment guidelines shall be sent to the Ministry of Planning and Investment, the People's Committee of the province, and the investment registration authority.

8. Within 05 working days from the receipt of the decision on investment guidelines, the investment registration authority shall issue the Investment Registration Certificate to the investor.

9. With regard to an investment project whose capital is VND 5,000 billion or over as specified in Clause 2 Article 31 of the Law on Investment and is conformable with planning approved by a competent authority, the investment registration authority shall consult with the Ministry of Planning and Investment and relevant authorities as set out in Clause 3 Article 30 of this Decree in order to issue the Investment Registration Certificate as follows:

a) With regard to an investment project specified in Clause 1 and Clause 3 Article 28 of this Decree, within 05 working days from the receipt of comments from the Ministry of Planning and Investment and relevant authorities, the investment registration authority shall make and submit a review report to the People's Committee of the province for issuance of a decision on investment guidelines. Within 05 working days from the receipt of review report from the investment registration authority, the People's Committee of the province shall issue the decision on investment guidelines. Within 05 working days from the receipt of the decision on investment guidelines from the People's Committee of the province, the investment registration authority shall issue the Investment Registration Certificate to the investor;

b) With regard to an investment project specified in Clause 2 Article 28 of this Decree, within 05 working days from the receipt of comments from the Ministry of Planning and Investment and relevant authorities, the management board of the industrial park, export-processing zone, hi-tech zone, or economic zone shall issue the Investment Registration Certificate to the investor.

Article 32. Procedures for issuance of decisions on investment guidelines to investment projects that are not required to have Investment Registration Certificate

1. The issuance of decisions on investment guidelines to projects that are not required to have Investment Registration Certificates is specified in Article 30 and Article 31 of this Decree.

2. With regard to a project that receives land or leases land from the State without bidding, receives a land use right or property on land, or requires land repurposing specified in Point a Clause 1 Article 32 of the Law on Investment and is executed in an industrial park, export-processing zone, hi-tech zone, or economic zone in conformity with the planning approved by a competent authority, the management board of the industrial park, export-processing zone, hi-tech zone, or economic zone shall request comments as set out in Clause 3 Article 30 of this Decree to issue a decision on investment guidelines.

3. With regard to an investment project whose capital is VND 5,000 billion or over as specified in Clause 2 Article 31 of the Law on Investment and is conformable with planning approved by a competent authority, the investment registration authority shall consult with the Ministry of Planning and Investment and relevant authorities as set out in Clause 3 Article 30 of this Decree in order to issue the decision on investment guidelines as follows:

a) With regard to an investment project specified in Clause 1 and Clause 3 Article 28 of this Decree, within 05 working days from the receipt of comments from the Ministry of Planning and Investment and relevant authorities, the investment registration authority shall make and submit a review report to the People's Committee of the province for issuance of a decision on investment guidelines. The People's Committee of the province shall issue the decision on investment guidelines within 05 working days from the receipt of review report from the investment registration authority. The decision on investment guidelines shall be sent to the Ministry of Planning and Investment, the investment registration authority, and the investor;

b) With regard to an investment project specified in Clause 2 Article 28 of this Decree, within 05 working days from the receipt of comments from the Ministry of Planning and Investment and relevant authorities, the management board of the industrial park, export-processing zone, hi-tech zone, or economic zone shall consider issuing the decision on investment guidelines. The decision on investment guidelines shall be sent to the Ministry of Planning and Investment and the investor.

Section 3. PROCEDURES FOR ADJUSTING INVESTMENT REGISTRATION CERTIFICATE AND DECISION ON INVESTMENT GUIDELINES

Article 33. Procedures for adjusting Investment Registration Certificates of investment projects that are not required to have decisions on investment guidelines

1. In case of a change to the investment project's name, investor's address, or investor's name, the investor shall submit an application for adjustments to the investment project to the investment registration authority together with documents about such changes. The investment registration authority shall adjust the Investment Registration Certificate within 03 working days from the day on which the application for adjustment is received.

2. In case of a change in the investment project's location, land area, targets, scale, capital, capital contribution schedule or capital raising schedule, operating duration, execution schedule, investment incentives, investment assistance (if any) and conditions to be fulfilled by the investor, the investor shall submit an application to the investment registration authority, which consists of:

- a) A written request for permission for project adjustments;
- b) A report on the project's progress up to the time of adjustment;
- c) The investor's decision on project adjustment (in case of changes specified in Clause 4, Clause 5, Clause 6, Clause 7, Clause 8, and Clause 10 Article 39 of the Law on Investment);
- d) Explanation or documents related to the changes specified in Point b through g Clause 1 Article 33 of the Law on Investment (if any).

3. Within 10 working days from the receipt of the valid application as specified in Clause 2 of this Article, the investment registration authority shall adjust the Investment Registration Certificate.

4. Provisions of Article 37, Article 38, and Article 39 of this Decree shall apply to change of investors.

Article 34. Procedures for adjusting Investment Registration Certificates of investment projects whose decisions on investment guidelines are issued by the People's Committees of provinces1. In case of a change in the investment project's target, location, primary technology, increase or decrease in capital by over 10% that changes the project's target, scale, and capacity; execution period, or conditions to be fulfilled by the investor (if any), the investor shall follow procedures for adjusting the Investment Registration Certificate as follows:

- a) The investor shall submit 04 sets of application specified in Clause 2 Article 33 of this Decree to the investment registration authority;
- b) Within 03 working days from the receipt of the valid application, the investment registration authority shall send the application to relevant authorities to receive comments about the adjustments;
- c) Within 10 working days from the day on which the request of the investment registration authority is received, the authorities mentioned in Point b of this Clause shall make comments about the issues under their management;
- d) Within 05 days from the receipt of the comments from the authorities mentioned in Point c of this Clause, the investment registration authority shall make and submit a review report to the People's Committee of the province;

dd) Within 05 working days from the receipt of review report from the investment registration authority, the People's Committee of the province shall issue the decision on adjustments to investment guidelines and send it to the investment registration authority;

e) According to the decision on adjustments to investment guidelines for the People's Committee of the province, the investment registration authority shall adjust the Investment Registration Certificate within 03 working days from the day on which the decision is received.

2. The procedures specified in Article 33 of this Decree shall apply to the changes that are not specified in Clause 1 of this Article.

Article 35. Procedures for adjusting Investment Registration Certificates of investment projects whose decisions on investment guidelines are issued by the Prime Minister

1. In case of a change in the investment project's target, location, primary technology, increase or decrease in capital by over 10% that changes the project's target, scale, and capacity; execution period, or conditions to be fulfilled by the investor (if any), the investor shall follow procedures for adjusting the Investment Registration Certificate as follows:

a) The investor shall submit 08 sets of application specified in Clause 2 Article 33 of this Decree to the investment registration authority;

b) Within 03 working days from the receipt of the valid application as set out in Point a of this Clause, the investment registration authority shall send 02 sets of the application to the Ministry of Planning and Investment and one set to each relevant competent authority to receive comments about the issues specified in Clause 3 Article 30 of this Article;

c) Within 10 working days from the day on which the request of the investment registration authority is received, the authorities mentioned in Point b of this Clause shall make comments about the issues under their management;

d) Within 20 days from the receipt of the valid application as set out in Point a of this Clause, the investment registration authority shall request the People's Committee of the province to consider and send comments about the issues specified in Clause 5 Article 31 of this Decree to the Ministry of Planning and Investment;

dd) Within 15 days from the receipt of the comments from the People's Committee of the province as set out in Point d of this Clause, the Ministry of Planning and Investment shall make and submit a review report to the Prime Minister for issuance of a decision on adjustments to investment guidelines;

e) Within 07 working days the receipt of the review report, the Ministry of Planning and Investment and the Prime Minister shall consider issuing a decision on adjustments to investment guidelines. The decision on adjustments to investment guidelines shall be sent to the Ministry of Planning and Investment, the People's Committee of the province, and the investment registration authority;

g) Within 05 working days from the receipt of the decision on adjustments to investment guidelines, the investment registration authority shall adjust the Investment Registration Certificate.

2. The procedures specified in of Article 33 of this Decree shall apply to the changes that are not specified in Clause 1 of this Article.

Article 36. Procedures for adjusting decisions on investment guidelines for investment projects that are not required to have Investment Registration Certificates

1. With regard to an investment project which is required to have a decision on investment guidelines and not required to have an Investment Registration Certificate, its investor shall follow procedures for adjusting the decision on investment guidelines in the following cases:

- a) The project's target, location, primary technology is changed;
- b) An increase or decrease in total capital by over 10% changes the project's target, scale, and capacity;
- c) The project's execution period or conditions to be fulfilled by the investor are changed (if any).

2. The procedures specified in Article 34 and Article 35 of this Decree shall apply to issuance of the decision on adjustments to investment guidelines.

3. With regard to an investment project specified in Clause 2 Article 32 of this Decree, the management board of the industrial park, export-processing zone, hi-tech zone, or economic zone shall collect comments about the adjustments in accordance with Clause 3 Article 30 of this Decree. Within 05 working days from the receipt of comments, the management board of the industrial park, export-processing zone, hi-tech zone, or economic zone shall issue a decision on adjustments to investment guidelines.

4. With regard to an investment project specified in Clause 3 Article 32 of this Decree, the investment registration authority shall request the Ministry of Planning and Investment and relevant authorities to make comments as set out in Clause 3 Article 30 of this Decree in order to issue a decision on adjustments to investment guidelines as follows:

- a) With regard to an investment project specified in Point a Clause 3 Article 32 of this Decree, within 05 working days from the receipt of comments from the Ministry of Planning and Investment and relevant authorities, the investment registration authority shall make and submit a review report to the People's Committee of the province for issuance of a decision on adjustments to investment guidelines. The People's Committee of the province shall issue the decision on adjustments to investment guidelines within 05 working days from the receipt of review report from the investment registration authority. The decision on adjustments to investment guidelines shall be sent to the Ministry of Planning and Investment, the investment registration authority, and the investor;

b) With regard to an investment project specified in Point b Clause 3 Article 32 of this Decree, within 05 working days from the receipt of comments from the Ministry of Planning and Investment and relevant authorities, the management board of the industrial park, export-processing zone, hi-tech zone, or economic zone shall consider issuing the decision on adjustments to investment guidelines. The decision on adjustments to investment guidelines shall be sent to the Ministry of Planning and Investment and the investor.

Article 37. Procedures for changing investors in case of investment project transfer

1. An investor (the transferor) may transfer part of or the whole investment project to another investor (the transferee) in accordance with the conditions specified in Clause 1 Article 45 of the Law on Investment. If the project transfer generates income, the transferor shall fulfill his/her tax liability as prescribed by law.

2. Procedures for changing the investor of a project operating under an Investment Registration Certificate which is not required to have a decision on investment guidelines:

a) The transferor shall submit a set of application to the investment registration authority, which consists of: a written request for permission for project adjustments, a report on the project's progress up to the time of transfer; the project transfer contract or another document with equivalent legal value; copies of the ID card or passport (if the investor is an individual) or Certificate of Enterprise Registration or another document with equivalent legal value (if the investor is an organization); copies of the Investment Registration Certificate or decision on investment guidelines (if any); copies of the BCC contract (for BCC projects); copies of one of the following documents of the transferee: financial statements of the last 02 years; commitment to provide financial support by the parent company, commitment to provide financial support by a financial institution, the guarantee of transferee's financial capacity, documents describing the transferee's financial capacity;

b) the investment registration authority shall consider the fulfillment of conditions for project transfer specified in Clause 1 Article 45 of the Law on Investment to adjust the Investment Registration Certificate within 10 working days from the day on which the valid application specified in Point a of this Clause is received.

3. Procedures for changing the investor of a project operating under an Investment Registration Certificate whose decision on investment guidelines is issued by the People's Committee of the province:

a) The investor shall submit 04 sets of application specified in Point 2 Clause 2 of this Article to the investment registration authority;

b) Within 03 working days from the receipt of the valid application as set out in Point a of this Clause, the investment registration authority shall send 02 it to competent authorities to receive comments about the conditions for project transfer specified in Clause 1 Article 45 of the Law on Investment;

c) Within 10 working days from the day on which the request of the investment registration authority is received, the authorities mentioned in Point b of this Clause shall make comments about the issues under their management;

d) Within 20 days from the receipt of the valid application, the investment registration authority shall make a report on fulfillment of conditions for project transfer according to Clause 1 Article 45 of the Law on Investment and submit it to the People's Committee of the province;

dd) Within 05 working days from the receipt of the report from the investment registration authority, the People's Committee of the province shall consider issuing a decision on adjustments to investment guidelines;

e) Within 03 working days from the receipt of the decision on adjustments to investment guidelines, the investment registration authority shall adjust the Investment Registration Certificate of the transferee.

4. Procedures for changing the investor of a project operating under an Investment Registration Certificate whose decision on investment guidelines is issued by the Prime Minister:

a) The investor shall submit 08 sets of application specified in Point 2 Clause 2 of this Article to the investment registration authority;

b) Within 03 working days from the receipt of the valid application as set out in Point a of this Clause, the investment registration authority shall send 02 it to competent authorities to receive comments about the conditions for project transfer specified in Clause 1 Article 45 of the Law on Investment;

c) Within 10 working days from the day on which the request of the investment registration authority is received, the authorities mentioned in Point b of this Clause shall make comments about the issues under their management;

d) Within 25 days from the receipt of the valid application as set out in Point a of this Clause, the investment registration authority shall request the People's Committee of the province to consider and send comments about the issues specified in Point c and Point d Clause 1 Article 45 of the Law on Investment (if any) to the Ministry of Planning and Investment.

dd) Within 10 working days from the receipt of comments from the People's Committee of the province, the Ministry of Planning and Investment shall make a report on fulfillment of conditions for project transfer as set out in Clause 1 Article 45 of the Law on Investment;

e) Within 07 working days the receipt of the report, the Ministry of Planning and Investment and the Prime Minister shall consider issuing a decision on adjustments to investment guidelines. The decision on adjustments to investment guidelines shall be sent to the Ministry of Planning and Investment, the People's Committee of the province, and the investment registration authority;

g) Within 05 working days from the receipt of the decision on adjustments to investment guidelines, the investment registration authority shall adjust the Investment Registration Certificate of the transferee.

5. The procedures specified in Clause 3 and Clause 4 of this Article shall apply to the change of the investor of a project that is required to have a decision on investment guidelines and not required to have an Investment Registration Certificate.

6. With regard to a project having a decision on investment guidelines issued by the management board of an industrial park, export-processing zone, hi-tech zone, or economic zone (hereinafter referred to as management board), the management board shall decide the adjustments to investment guidelines when the conditions specified in Clause 1 Article 45 of the Law on Investment are fulfilled.

7. With regard to a project having a decision on investment guidelines, if the investor in which has finished contributing and/or raising capital, and the project has been put into operation, it is not required to follow the procedures for adjusting investment guidelines specified in Clause 3 through 6 of this Article. Where project is executed under an Investment Registration Certificate, the investor shall follow procedures for adjusting the Investment Registration Certificate as set out in Clause 2 of this Article.

8. Where a foreign investor receives a project and establish a business organization to execute it, such foreign investor shall follow procedures for issuing or adjusting the Investment Registration Certificate, then follow procedures for establishing a business organization in accordance with regulations of law on establishment of the corresponding type of business organization.

Article 38. Procedures for adjusting a project in case of corporate division, acquisition, consolidation, or conversion

1. A business organization established on the basis of a corporate division, acquisition, consolidation, or conversion shall inherit the investor's rights and obligations to the investment project before restructuring.

2. The investor shall decide the restructuring and settle the assets, rights and obligations to the project in accordance with regulations of law on enterprises and relevant regulations of law.

3. After the procedures mentioned in Clause 2 of this Article are completed, the investor shall submit an application for project adjustments to the investment registration authority of the administrative division in which the project is located. The application consists of:

a) A written request for permission for project adjustments;

b) Copies of the Certificate of Enterprise Registration or an equivalent document of the transferee;

c) Copies of the investor's resolution or decision on restructuring which specifies the settlement of assets, rights and obligations to the project.

4. Within 15 working days from the receipt of the valid application as specified in Clause 3 of this Article, the investment registration authority shall adjust or issue the Investment Registration Certificate.

5. If the project is not executed under an Investment Registration Certificate, the investor is not required to follow procedures for change of investor specified in Clause 3 and Clause 4 of this Article. Ownership or assets shall be transferred to the transferee in accordance with civil law, regulations of law on enterprises, and relevant regulations of law.

Article 39. Procedures for adjusting an investment project according to a court decision or arbitral award

1. Where a project has to be adjusted according to a court decision or arbitral award, the investor shall make such adjustments in accordance with the court decision or arbitral award and keep executing the project.

2. With regard to an investment project executed under an Investment Registration Certificate, the investor shall submit 01 set of application to the investment registration authority of the administrative division where the project is located. The application consists of:

a) A written request for permission for project adjustments;

b) Copies of the ID's card or passport (if the investor is an individual); copies of the Certificate of Enterprise Registration or an equivalent document which certifies the investor's legal status (if the investor is an organization);

c) The effective court decision or arbitral award.

3. The investment registration authority shall adjust the Investment Registration Certificate within 15 working days from the receipt of the valid application as specified in Clause 2 of this Article.

Article 40. Procedures for reissuance of Investment Registration Certificate and correction of information thereon

1. Where an Investment Registration Certificate is lost or damaged, the investor shall submit an application for its reissuance to the investment registration authority. The investment registration authority shall consider reissuing the Investment Registration Certificate within 05 working days from the day on which the application is received.

2. If information on the Investment Registration Certificate is different from that on the application for investment registration, the investment registration authority shall rectify

information on the Investment Registration Certificate within 03 working days from the day on which the investor's request is received.

3. With regard to a project having an Investment Registration Certificate without having to follow procedures for issuance of the Investment Registration Certificate specified in Clause 1 Article 36 of the Law on Investment, the investor may keep executing the project and return the Investment Registration Certificate.

Section 4. PROCEDURES FOR SHUTTING DOWN INVESTMENT PROJECTS

Article 41. Conditions and procedures for shutting down an investment project and revoking its Investment Registration Certificate

1. A project is shut down in the cases specified in Clause 1 Article 48 of the Law on Investment.

2. Procedures for shutdown of a project:

a) If the investor decides to shut down the project as set out in Point a Clause 1 Article 48 of the Law on Investment, the investor shall send the decision on project shutdown to the investment registration authority within 15 days from its issuance date together with the Investment Registration Certificate (if any);

b) Where a project is shut down under the conditions of a contract, enterprise's charter, or upon the expiration of its operating period specified in Point b and Point c Clause 1 Article 48 of the Law on Investment, the investor shall submit a notification and return the Investment Registration Certificate (if any) to the investment registration authority within 15 days from the date of shutdown of the project together with documents about the shutdown;

c) In case of shut down of a project set out in Point d, dd, e, g, and h Clause 1 Article 48 of the Law on Investment, the investment registration authority shall issue a decision on project shutdown and revoke the Investment Registration Certificate (if the project has one). The Investment Registration Certificate is annulled from the effective date of the decision on project shutdown.

3. With regard to a project operating under an Investment Certificate (also the certificate of business registration) or Investment License, the investment registration authority shall issue a decision on project shutdown without revoking the Investment Certificate (also the certificate of business registration) or Investment License. In this case, the business registration information on the Investment Certificate (also the certificate of business registration) or Investment License is still effective.

4. In case of concurrent shutdown of a project and a business organization, the project shall be shutdown as set out in this Article and the investor shall follow procedures for shutting down the business organization according to relevant regulations of law.

5. After the project is shut down, it shall be liquidated as follows:

- a) The investor liquidates the project in accordance with regulations of law on asset liquidation;
- b) With regard to a project that receives land, leases land from the State, or repurposes land, the right to use land and property on land shall comply with regulations of law on land;
- c) During the course of liquidation of a project, if the investor is a business organization that is dissolved or goes bankrupt, the project shall be liquidated in accordance with regulations of law on dissolution and bankruptcy of business organizations.

Article 42. Shutdown of a project in case the investment registration authority cannot contact the investor

1. Where a project is shut down and the investment registration authority cannot contact the investor or the investor's legal representative, the investment registration authority shall follow the procedures below:

- a) Make a record on the shutdown of the project and failure to contact the investor;
- b) Send a request that the investor contact the investment registration authority to settle the project shutdown to the address registered by the investor with the investment registration authority. Within 30 working days from the day on which the request is sent, if the investor does not contact, the investment registration authority take the step in Point c of this Clause;
- c) Send a request for assistance in contacting the investor to, if the investor is a Vietnamese person, the People's Committee of the commune where the investor resides, or, if the investor is a foreign entity, the diplomatic mission in Vietnam of the investor's home country and publish a notice that the investor contact the investment registration authority for 90 days on National Foreign Investment Web Portal.

2. After all the measures specified in Clause 1 of this Article are taken and the investor or the investor's legal representative cannot be contacted after 12 months from the date of shutdown of the project, the investment registration authority shall issue a decision on project shutdown.

3. After the investment registration authority issues such decision, assets of the project shall be managed in accordance with regulations of law on management of property of absent residents.

4. Within the scope of their competence, competent authority shall perform the following tasks:

- a) The investment registration authority shall appoint a person to supervise the management of assets of the project after its shutdown at the request of competent authority and persons having relevant rights and benefits, unless otherwise prescribed by law;
- b) The tax authority and customs authority shall take the measures prescribed by regulations of law on tax administration and relevant regulations of law to collect tax debts and other financial obligations to the State of the investor (if any);

c) The land authority shall withdraw land and settle property on land if the project's land is withdrawn as prescribed by regulations of law on land;

d) The labor authority shall assist workers who lose their jobs and provide relevant benefits in accordance with regulations of law on labor;

dd) Other competent authorities shall perform other management tasks related to the project within the scope of their competence.

5. Every request of dispute between the investor and other entities over rights and obligations relevant to the project shall be settled through court or arbitration proceedings as agreed by the parties and in accordance with law.

Article 43. Invalidation of the decision on investment guidelines

The decision on investment guidelines and decision on adjustments to investment guidelines shall be invalidated if a project is shut down as specified in Article 48 of the Law on Investment.

Section 5. ESTABLISHMENT OF BUSINESS ORGANIZATIONS, CAPITAL CONTRIBUTION, PURCHASE OF SHARES/STAKES BY FOREIGN INVESTORS

Article 44. Establishment of business organizations by foreign investors

1. A foreign investor shall establish a business organization as follows:

a) Follow procedures for issuance of an Investment Registration Certificate specified in Article 29 through 31 of this Decree;

b) Follow procedures for establishment of a business organization after being granted the Investment Registration Certificate mentioned in Point a of this Clause in order to launch the project and business operation.

2. Documentation and procedures for establishment of a business organization shall comply with regulations of law on enterprises and other regulations of law relevant to the type of business entity. The business registration authority must not request the investor to submit any other document other than those specified in regulations of law on enterprises and relevant regulations of law. The content of the Investment Registration Certificate shall not be reconsidered.

3. Charter capital of a business organization established by a foreign investor for execution of an investment project is not necessarily equal to the capital of the project. The business organization mentioned in Point b Clause 1 of this Article shall contribute capital and raise capital to execute the project according to the schedule on the Investment Registration Certificate.

Article 45. Execution of investment project and business operation of foreign-invested business organization

1. From the day on which the Certificate of Enterprise Registration or an equivalent document is issued, the business organization established by a foreign investor shall be the investor that executes the project as set out in the Investment Registration Certificate.

2. If there is new project besides the project granted the Investment Registration Certificate, the foreign-invested business organization shall follow these procedures:

a) The business organization specified in Point a through c Clause 1 Article 23 of the Law on Investment shall follow procedures for issuance of the Investment Registration Certificate as set out in Article 29 through 31 of this Decree;

b) A business organization other than those specified in Point a of this Clause shall make a report in accordance with Clause 5 Article 71 of the Law on Investment. The report shall specify: The project's name, targets, scale, capital, location, schedule, labor demand, and investment incentives (if any).

3. The foreign-invested business organization may adjust the enterprise registration information at the business registration authority without having to have an investment project. The addition of business lines of a foreign-invested business organization must satisfy investment conditions applied to foreign investor (if any).

4. The foreign-invested business organization may open branches, representative offices, and business locations without having to have an investment project. Documentation and procedures for establishment of branches, representative offices, business locations of a business organization shall comply with regulations of law on enterprises and other regulations of law relevant to the type of business entity.

5. When making investment or trading in securities on securities market, foreign-invested business organizations that are listed public companies and public funds are only required to apply regulations on investment, charter capital holdings, unless regulations of law and international agreements on investment specify otherwise. The Ministry of Finance shall take charge and cooperate with the Ministry of Planning and Investment in providing guidance on this Clause.

Article 46. Procedures for investment through capital contribution, purchase of shares/stakes by foreign investors

1. Foreign investors who make investment through capital contribution or purchase of shares/stakes of business organizations are not required to obtain Investment Certificates.

2. Any business organization invested by a foreign investor through capital contribution or purchase of shares/stakes shall follow procedures for registration of change of members/shareholders at a business registration authority in accordance with regulations of law on enterprises and other regulations of law relevant to its type of business entity, except for the following cases:

- a) The investor contributes capital to or purchase shares/stakes of the business organization whose business lines are subject to conditions applied to foreign investors;
- b) The capital contribution or purchase of shares/stakes that leads to a foreign investor or business organization specified in Point a, Point b, and Point c Clause 1 Article 23 of the Law on Investment holds 51% of charter capital of the business organization or more in the following cases: The charter capital held by the foreign investor is increased to 51% or over and the charter capital held by the foreign investor is increased while such foreign investor is holding 51% charter capital of the business organization or more.

3. A foreign investor that makes investment through capital contribution or purchase of shares/stakes of a business organization in the cases specified in Point a and Point b Clause 2 of this Article shall follow these procedures:

- a) The investor shall submit 01 application for registration of capital contribution or purchase of shares/stakes as set out in Clause 2 Article 26 of the Law on Investment to the Department of Planning and Investment of the province where the business organization's headquarters is located;
- b) Within 15 days from the receipt of the valid application as set out in Point a of this Clause, the Department of Planning and Investment shall assess the foreign investor's fulfillment of investment conditions and send a notification to the investor;
- c) After receiving the notification specified in Point b of this Clause, the business organization invested by the foreign investor through capital contribution or purchase of shares/stakes shall follow procedures for registration of change of members/shareholders at a business registration authority in accordance with regulations of law on enterprises and other regulations of law relevant to its type of business entity.

4. The business organization invested by the foreign investor is not required to follow procedures for issuance or adjustment of the Investment Registration Certificates or decisions on investment guidelines for the projects executed before the foreign investor makes such investment.

Section 6. INVESTMENT IN INDUSTRIAL PARKS, EXPORT-PROCESSING ZONES, HI-TECH ZONES, ECONOMIC ZONES

Article 47. Operation of investors executing investment projects in industrial parks, export-processing zones, economic zones, and hi-tech zones

- 1. Leasing or purchasing existing buildings, offices, warehouses and depots to serve their business operation.
- 2. Paying for the use of technical infrastructure and service facilities, including roads, electricity supply, water supply and drainage, communications, treatment of wastes and wastewater, and other public facilities (hereinafter referred to as infrastructure charges)

3. Transferring, receiving the right to use land or lease land with available infrastructure to construct buildings, offices, and other works serving their business operation in accordance with regulations of law on land and real estate trading.
4. Leasing, subleasing their buildings, offices, and other works to serve their business operation in accordance with regulations of law on land and real estate trading.
5. Performing other activities specified in the Law on Investment, this Decree, and relevant regulations of law.

Article 48. Operation of investors executing investment projects and operating infrastructure of industrial parks, export-processing zones, economic zones, and hi-tech zones

1. Constructing buildings, offices, warehouses and depots for sale or for lease.
2. Fixing rents for land with available infrastructure; charges for using infrastructure; rents and selling prices for buildings, offices, warehouses and depots, and other services charges as registered with management board. Price brackets and prices for use of infrastructure shall be registered every 6 months or when there are changes.
3. Collecting infrastructure charges.
4. Transfer the right to use land, lease land, sublease land with available infrastructure in industrial parks, export-processing zones, hi-tech zones, economic zones to other investors in accordance with regulations of law on land and real estate trading.
5. Performing other activities specified in the Law on Investment, this Decree, and relevant regulations of law.

Chapter V

STATE MANAGEMENT OF INVESTMENT

Section 1. STATE MANAGEMENT OF INVESTMENT PROMOTION

Article 49. Rules for state management of investment promotion

1. Investment promotion shall be managed as follows:
 - a) Investment promotion activities of Ministries, regulatory bodies, the People's Committee of the province must be aggregated into investment promotion programs after reaching agreements with the Ministry of Planning and Investment.
 - b) Promotion of investment in key fields and key economic regions is encouraged according to the orientation for investment attraction at that time; other investment promotion activities must

be carried out according to assessment of demand for investment, data analysis, updated information, and be practical;

c) Focus on investment promotion of executed projects through assistance in resolving difficulties;

d) It is encouraged to combine investment promotion with promotion of trade, tourism, diplomatic and cultural propagation programs;

d) It is encouraged to mobilize social resources to investment promotion.

2. The Prime Minister shall provide specific regulations on cooperation among Ministries, regulatory bodies, and the People's Committees of provinces in investment promotion.

Article 50. Duties and entitlements of investment promotion authorities

1. The Ministry of Planning and Investment shall assist the Government in uniform management of investment promotion.

2. The Ministry of Planning and Investment shall:

a) Take charge and cooperate with other Ministries, regulatory bodies, and the People's Committees of provinces in establishing investment promotion orientation, programs, and plans; providing guidance on development of annual investment promotion programs of Ministries, regulatory bodies, and the People's Committees of provinces; develop and implement National Investment Promotion Programs;

b) Provide guidance on provision of information and reports on investment promotion;

c) Carry out investment promotion activities of investment promotion programs specified in Point a of this Clause;

d) Cooperate with the Ministry of Foreign Affairs and the Ministry of Home Affairs in establishing overseas investment promotion units, appointing Vietnamese representatives, and submit them to the Prime Minister for decision;

dd) Provide training in investment promotion;

e) Submit periodic reports to the Prime Minister on progress and orientation of investment promotion.

3. The Ministry of Finance shall:

a) Take charge and cooperate with the Ministry of Planning and Investment in providing guidance on limitation of funding from state budget and financial management of investment promotion activities;

b) Cooperate with the Ministry of Planning and Investment, other Ministries, regulatory bodies, and the People's Committees of provinces in estimating investment promotion costs of National Investment Promotion Program and investment promotion programs of Ministries, regulatory bodies, and the People's Committees of provinces;

c) Take charge and cooperate with the Ministry of Foreign Affairs and the Ministry of Planning and Investment in providing state funding for overseas investment promotion units;

d) Take charge and cooperate with the Ministry of Planning and Investment, other Ministries, regulatory bodies, and the People's Committees of provinces in resolving difficulties related to the provision and use of state funding for investment promotion.

4. The Ministry of Foreign Affairs shall:

a) Cooperate with the Ministry of Planning and Investment, other Ministries, regulatory bodies, and the People's Committees of provinces in implementing investment promotion programs and activities, combining investment promotion with diplomatic tasks;

b) Provide support and participate in investment promotion overseas as approved in a notice of the Ministry of Planning and Investment; Overseas representative bodies of Vietnam shall notify the Ministry of Planning and Investment of new investment promotion activities and reach an agreement before execution;

c) Take charge and instruct Overseas representative bodies of Vietnam to manage the operation of overseas investment promotion units;

d) Take charge and cooperate with the Ministry of Planning and Investment, and the Ministry of Home Affairs in requesting the Prime Minister to decide the establishment and payroll of overseas investment promotion units;

dd) Appoint officials working at overseas investment promotion units and award them diplomatic titles in consideration of the request of the Ministry of Planning and Investment;

e) Provide sufficient facilities, means of transport, working conditions, and funding for overseas investment promotion units.

5. Duties and entitlements of other Ministries, regulatory bodies, and the People's Committees of provinces:

a) Take charge and cooperate with the Ministry of Planning and Investment, relevant Ministries and regulatory bodies in developing annual and long-term investment promotion programs; propose activities to National Investment Promotion Program;

b) Carry out investment promotion activities within the scope of their competence;

c) Cooperate with Ministries, regulatory bodies, and the People's Committees of other provinces in investment promotion.

Article 51. Funding for investment promotion

1. Funding for annual investment promotion programs is part of annual budget estimates.
2. Funding for investment promotion of Ministries, regulatory bodies, and the People's Committees of provinces is part of their annual budget estimates.
3. Funding for investment promotion of Ministries, regulatory bodies, and the People's Committees of provinces is only provided for investment promotion activities of approved investment promotion programs.

Section 2. INVESTMENT REPORT AND OPERATION OF NATIONAL FOREIGN INVESTMENT INFORMATION SYSTEM

Article 52. Report content and reporting period of investment authorities

1. Reports submitted by investment registration authorities to the People's Committees of provinces include;
 - a) Quarterly reports made before the 12th of the first month of the quarter succeeding the reported quarter, which specify: receipt of applications, issuance, adjustment and revocation of Investment Registration Certificates, and status of the projects;
 - b) Biannual reports made before July 15, which specify: assessment of investment over the first 6 months of the year, the plan for attracting and using capital for the next 6 months;
 - c) Annual reports made before February 15 of the year succeeding the reported year, which specify: assessment of investment over the whole year, the plan for attracting and using capital for the next year, list of investment projects in which investors are interested.
2. Every quarter, every 6 months, and every year, the People's Committee of each province shall aggregate reports submitted by investment registration authorities under their management in order to report to the Ministry of Planning and Investment as set out in Clause 1 of this Article after 05 working days from the deadline for investment registration authorities to report.
3. Regulatory bodies shall provide information for the Ministry of Planning and Investment as follows:
 - a) The Ministry of Finance shall submit quarterly reports on issuance, adjustment, and revocation of Investment Registration Certificates or equivalent documents of insurers and securities companies before the 12th of the first month of the quarter succeeding the reported quarter; aggregate annual financial statements of foreign-invested business organizations nationwide to make and submit annual reports on export, import, production, business operation, payments to

state budget of foreign-invested business organizations before May 31 of the year succeeding the reported year;

b) The Ministry of Industry and Trade shall submit quarterly reports on issuance, adjustment of Investment Registration Certificates, shutdown, and business outcomes of foreign projects of investment in petroleum exploration and extraction in Vietnam before the 12th of the first month of the quarter succeeding the reported quarter;

c) The Ministry of Justice shall submit quarterly reports on issuance, adjustment of Investment Registration Certificates, shutdown, and business outcomes of branches and law firms before the 12th of the first month of the quarter succeeding the reported quarter;

d) The State bank of Vietnam shall submit quarterly reports on issuance, adjustment of Investment Registration Certificates, shutdown, and business outcomes of commercial presences in Vietnam of foreign finance companies and foreign credit institutions before the 12th of the first month of the quarter succeeding the reported quarter.

dd) The Ministry of Labor, War Invalids and Social Affairs shall submit annual reports on registration and licensing of foreign workers in foreign-invested business organizations before March 31 of the year succeeding the reported year;

e) The Ministry of Natural Resources and Environment shall submit annual reports on land received, leased, and used by foreign-invested business organizations before March 31 of the year succeeding the reported year;

g) The Ministry of Science and Technology shall submit annual reports on technology transfers by foreign-invested business organizations before March 31 of the year succeeding the reported year.

4. The Ministry of Planning and Investment shall aggregate the reports and submit quarterly and annual reports on nationwide investment to the Prime Minister as set out in Point dd Clause 2 Article 71 of the Law on Investment.

Article 53. Report content and reporting period of investment authorities

Any business organization that executes an investment project shall submit reports to the local investment registration authority and statistics authority as follows:

1. Monthly reports on use of capital: If capital is provided during the month, the business organization must submit a report within 12 days from the end of that month.

2. Each quarterly report shall be submitted by the 12th of the first month of the quarter succeeding the reported quarter, which specify: capital, net revenue, export, import, workers, taxes, amounts payable to state budget, use of land and water surface.

3. Each annual report shall be submitted by March 31 of the next year, which specifies: information on the quarterly reports, profit, incomes of workers, expenditures and investment in research and development, environmental protection, origins of technologies used.

Article 54. Sending reports

1. The business organization that executes an investment project shall submit reports only via National Investment Information System.
2. The investment registration authority shall submit physical and electronic reports on National Investment Information System.
3. The Ministry of Planning and Investment shall provide forms and inspect the adherence to reporting provisions of this Decree.

Article 55. Duties and entitlements of regulatory bodies to management and operation of National Investment Information System

1. The Ministry of Planning and Investment shall take charge and cooperate with relevant regulatory bodies in developing and operating the National Investment Information System; provide instructions on its management, operation, and use.
2. Ministries, regulatory bodies, and the People's Committees of provinces shall update and provide information about investment activities within their management on National Investment Information System; organize the operation and use of National Investment Information System in accordance with the Law on Investment, this Decree and relevant regulations.
3. Investment registration authorities shall use National Investment Information System to receive applications, issue, adjust, revoke Investment Registration Certificates; monitor and assess the execution of investment projects; receive reports, and instruct investors to use National Investment Information System in accordance with this Decree.
4. The agency in charge of operation of National Investment Information System and National Enterprise Registration Information System shall exchange information about enterprise registration of foreign-invested business organizations, capital contribution, purchase of shares/stakes by foreign investors when they follow the procedures specified in Article 44 and Article 46 of this Decree, investment conditions applied to foreign investors, list of business lines subject to conditions and investment conditions.
5. The business organizations that execute investment projects shall be given accounts to log in to National Investment Information System in order to submit periodic reports.
6. The Ministry of Planning and Investment shall provide specific instructions on management, operation, and use of National Investment Information System.

Section 3. DUTIES AND ENTITLEMENTS OF MINISTRIES, REGULATORY BODIES, AND THE PEOPLE'S COMMITTEES OF PROVINCES

Article 56. Duties and entitlements of the Ministry of Planning and Investment

1. Perform the duties and entitlements specified in Clause 3 Article 68 of the Law on Investment and other duties and entitlements specified in this Decree.
2. Supervise, inspect, and assess investment activities within its management; inspect the issuance, adjustment, revocation of Investment Registration Certificates by investment registration authorities; supervise the adherence to planning approved by competent authorities during the course of investment.
3. Take charge and cooperate with other Ministries and ministerial agencies in reviewing, gathering, posting investment conditions on National Enterprise Registration Portal and investment conditions applied to foreign contractor on National Foreign Investment Web Portal.
4. Take charge and cooperate with other Ministries and ministerial agencies in reviewing, making periodic reports on implementation of regulations of law on to business lines banned from investment, business lines subject to conditions, and investment conditions applied to foreign investors, and submitting such reports to the Prime Minister.
5. Instruct and assist investment registration authorities, business registration authorities in resolving difficulties during the course of investment and enterprise registration.

Article 57. Duties and entitlements of other Ministries and ministerial agencies

1. The Ministry of Finance shall take charge and cooperate with relevant regulatory bodies in developing policies on tax and financial incentives (land rents, land levies) for investment and submit them to competent authorities for promulgation, instruction, and inspection of implementation thereof; carry out inspections and make comments about finance, Government guarantees for investment projects whose investment guidelines are decided by the Prime Minister or the National Assembly.
2. The Ministry of Natural Resources and Environment shall take charge and cooperate with relevant regulatory bodies in promulgating regulations on environmental protection and resources related to investment activities and submit them to competent authorities for promulgation, instruction, and inspection of implementation thereof, carry out inspections and make comments about land and environmental issues of investment projects whose investment guidelines are decided by the Prime Minister or the National Assembly.
3. The Ministry of Science and Technology shall take charge and cooperate with relevant regulatory bodies in establishing regulations on investment in science and technology and request competent authority to promulgate them, provide instructions, and inspection of implementation thereof; submit master plans for development of hi-tech zones to the Prime Minister; carry out inspections and make comments about scientific and technological issues of

investment projects whose investment guidelines are decided by the Prime Minister or the National Assembly.

4. The Ministry of Construction shall take charge and cooperate with relevant regulatory bodies in establishing regulations on construction of investment projects and submit them to competent authorities for promulgation, instruction, and inspection of implementation thereof; carry out inspections and make comments about construction of investment projects whose investment guidelines are decided by the Prime Minister or the National Assembly.

5. The State bank of Vietnam shall take charge and cooperate with relevant regulatory bodies in establishing regulations on credit and foreign currency management related to investment activities and submit them to competent authorities for promulgation, instruction, and inspection of implementation thereof; carry out inspections and make comments about credit and foreign currency management of investment projects whose investment guidelines are decided by the Prime Minister or the National Assembly.

6. The Ministries and ministerial agencies specified in Clause 1 through 5 of this Article shall perform the duties and entitlements specified in Clause 4 Article 68 of the Law on Investment and other duties and entitlements specified in this Decree and relevant regulations of law.

Article 58. Duties and entitlements of the People's Committees of provinces

1. Develop planning and plans for attracting investment; make and publish Lists of local projects that need investing.

2. Issue decision on investment guidelines for investment projects under their management as set out in Article 32 of the Law on Investment.

3. Provide instructions for and supervise investment registration authorities issuing Investment Registration Certificates and managing local investment activities.

4. Provide instructions on making detailed planning for construction of industrial parks and export-processing zones; approve detailed planning for construction of industrial parks and export-processing zones; detailed planning for construction of specialized areas in economic zones.

5. Instruct investment registration authorities, business registration authorities, land authorities, environment authorities, and construction authorities to simplify procedures to enable investors to make investment.

6. Performing other duties and entitlements specified in this Decree and relevant regulations of law.

Chapter VI

IMPLEMENTATION

Section 1. TRANSITION CLAUSES

Article 59. Projects executed before effective date of the Law on Investment

1. Investments in such projects executed before effective date of the Law on Investment shall keep executing their projects in accordance with their Investment Licenses, Investment Incentive Certificates, Investment Certificates, and equivalent documents that were granted by competent authorities before the effective date of the Law on Investment.
2. Investment Licenses, Investment Incentive Certificates, Investment Certificates, and equivalent documents that were granted by competent authorities before the effective date of the Law on Investment have the same legal value as the Investment Registration Certificate.
3. The aforesaid investors are not required to obtain the Investment Registration Certificate or decision on investment guidelines for projects that have been executed or have their investment guidelines approved or permitted by competent authorities before the effective date of the Law on Investment.

Article 60. Enterprises operating under Investment Licenses or Investment Certificates (also Certificates of Business Registration)

1. Every enterprise operating under an Investment License may keep operating in accordance with such Investment License and its charter. With regard to regulations that are not specified on the Investment License and the enterprise's charter, the enterprise shall follow the Law on Enterprises, the Law on Investment, and relevant regulations of law as follows:
 - a) Regulations applied to single-member limited liability companies also apply to any wholly foreign-owned enterprise owned by a single foreign investor;
 - b) Regulations applied to multi-member limited liability companies also apply to any joint-venture or wholly foreign-owned enterprise owned by more than one foreign investor;
 - c) Regulations applied to joint-stock companies also apply to foreign-invested joint-stock companies established under the Government's Decree No. 38/2003/ND-CP dated April 15, 2003 on conversion of foreign-invested companies into joint-stock companies.
2. Every enterprise operating under an Investment Certificate (also Certificate of Business Registration) may keep operating in accordance with such Investment Certificate (also Certificate of Business Registration) and its charter. With regard to regulations that are not specified on the Investment Certificate (also Certificate of Business Registration) and the enterprise's charter, the enterprise shall follow the Law on Enterprises, the Law on Investment, and relevant regulations of law.

Article 61. Replacement of old documents with Investment Registration Certificates and Certificates of Enterprise Registration

1. Every investor whose project is granted an Investment License, Investment Incentive Certificate, Investment Certificate, or an equivalent document before the effective date of the Law on Investment may replace it with an Investment Registration Certificate as follows:

a) Each investor shall submit 01 set of application for issuance of the Investment Registration Certificate to the investment registration authority, which consists of a written request for the issuance of the Investment Registration Certificate and copies of the Investment License, Investment Incentive Certificate, Investment Certificate, or equivalent documents;

b) The investment registration authority shall issue the Investment Registration Certificate to the investor within 03 working days from the day on which the application specified in Point a of this Clause is received. The Investment Registration Certificate shall contain every information on the Investment License, Investment Incentive Certificate, Investment Certificate, or equivalent documents. The business registration information on the Investment License, Investment Incentive Certificate, Investment Certificate, or equivalent documents shall remain effective.

2. Every enterprise operating under an Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document granted before the effective date of the Law on Investment may replace it with a Certificate of Enterprise Registration as follows:

a) The enterprise shall submit 01 set of application for issuance of the Certificate of Enterprise Registration to the business registration authority of the area where the enterprise's headquarters is located, which consists of a written request for update or addition of information about enterprise registration, copies of the Investment License or Investment Registration Certificate (also Certificate of Business Registration) or an equivalent document, and copies of the Tax Registration Certificate;

b) The investment registration authority shall issue the Certificate of Enterprise Registration within 03 working days from the day on which the application specified in Point a of this Clause is received. The Certificate of Enterprise Registration shall contain every business registration information on the Investment License, Investment Certificate (also Certificate of Business Registration), or the equivalent document. The business registration information on the Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document is annulled from the day on which the enterprise is granted the Certificate of Enterprise Registration; information about the project on the Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document shall remain effective.

3. Any investor that wishes to replace his/her Investment License, Investment Certificate (also Certificate of Business Registration), or an equivalent document with the Certificate of Enterprise Registration shall follow these procedures:

a) Obtain the Certificate of Enterprise Registration as set out in Clause 2 of this Article;

b) Obtain the Investment Registration Certificate as set out in Clause 1 of this Article (the application for issuance of an Investment Registration Certificate consists of copies of the Certificate of Enterprise Registration granted in accordance with Clause 2 of this Article and documents specified in Point a Clause 1 of this Article)

4. The enterprise granted the Certificate of Enterprise Registration as set out in Clause 2 and Clause 3 of this Article inherits all rights and obligations written on the Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document from the day on which the Certificate of Enterprise Registration is granted, which contains rights and obligations to the investment project; The investor specified in the Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document have the same rights and obligations to the project as those of the enterprise's partners or shareholders.

5. Branches and/or representative offices of an enterprise operating under Investment Licenses or Investment Certificates (also Certificates of Business Registration) or equivalent documents granted before the effective date of the Law on Investment may replace them with Certificates of Branch/Representative Office Registration as set out in the Law on Enterprises. Documentation and procedures for obtaining a Certificate of Branch/Representative Office Registration are the same as those specified in Clause 2 and Clause 3 of this Article.

6. Every enterprise shall update information about enterprise registration and is not required to replace the Investment License, Investment Certificate (also Certificate of Business Registration), or an equivalent document with a Certificate of Enterprise Registration when following procedures for enterprise dissolution, business suspension, notification of seal; establishment, change of operating contents, shutdown of a branch/representative office.

Article 62. Adjusting investment projects before the effective date of the Law on Investment

1. If adjustments to a project lead to changes in the Investment License, Investment Incentive Certificate, Investment Certificate, or an equivalent document granted before the effective date of the Law on Investment, the investor shall follow procedures to adjust the Investment Registration Certificate specified in Article 33 of this Decree at an investment registration authority to obtain the Investment Registration Certificate. The Investment Registration Certificate shall contain information about the adjusted project and all unchanged and effective information about the project on the Investment License, Investment Incentive Certificate, Investment Certificate, or equivalent documents.

2. If an Investment License, Investment Certificate, or an equivalent document specified in Clause 1 of this Article also contains business registration information, the investment registration authority shall issue an Investment Registration Certificate to the investor to replace information about the project on the Investment License, Investment Certificate (also Certificate of Business Registration) or another equivalent document as set out in Clause 1 of this Article. The business registration information on the Investment License, Investment Certificate (also Certificate of Business Registration) or another equivalent document shall remain effective.

3. With regard to a project that is not required to have a decision on investment guidelines as set out in regulations effective before the effective date of the Law on Investment and are required to have a decision on investment guidelines specified in the Law on Investment or this Decree, it is not mandatory to obtain a decision on investment guidelines or adjust the decision on investment when adjusting the project, except for the following cases:

- a) The project's expansion makes a decision on investment guidelines mandatory as set out in Article 30 and Article 31 of the Law on Investment;
- b) Additional targets of the project are subject to issuance of a decision on investment guidelines as set out in Article 30 and Article 31 of the Law on Investment;
- c) Additional content of the project include: request for land allocation or land lease by the State without bidding or tendering, receipt of transfer of right to use land or property on land; request for permission for land repurposing or use of technologies on the list of technologies restricted from transfer according to regulations of law on technology transfers.

4. In the cases mentioned in Point a through c Clause 3 of this Article, the investor shall follow procedures for adjusting the decision on investment guidelines in accordance with Section 3 Chapter IV of this Decree. In such cases, the issuer of the decision on investment guidelines shall consider adjustments to the decision on investment guidelines.

5. In case of adjustments to a project that is required to have a decision on investment guidelines as set out in regulations effective before the effective date of the Law on Investment leads to changes in the decision on investment guidelines, the investor shall follow procedures for adjusting the decision on investment guidelines specified in this Decree.

Article 63. Changing business registration information on an Investment License or Investment Certificate (also Certificate of Business Registration)

1. An enterprise operating under an Investment License, Investment Certificate (also Certificate of Business Registration), or an equivalent document shall adjust business registration information at a business registration authority as follows:

- a) Documentation and procedures for adjusting business registration information shall comply with regulations of law on enterprises;
- b) The business registration authority shall issue a Certificate of Enterprise Registration to replace the business registration information on the Investment License, Investment Certificate (also Certificate of Business Registration), or the equivalent document;
- c) The Certificate of Enterprise Registration shall contain adjusted enterprise registration information and other unchanged and effective enterprise registration information on the Investment License, Investment Certificate (also Certificate of Business Registration), or the equivalent document.

d) The business registration information on the Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document is annulled from the day on which the enterprise is granted the Certificate of Enterprise Registration; information about the project on the Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document shall remain effective;

dd) If the enterprise wishes to change business registration information because a foreign investor contributes capital or purchases shares/stakes as specified in Point a and Point b Clause 2 Article 46 of this Decree, the investor shall follow procedures for registration of capital contribution or purchase of shares/stakes specified in Point a and Point b Clause 3 Article 46 of this Decree before the enterprise follows procedures for issuance of the Certificate of Enterprise Registration;

e) After the Certificate of Enterprise Registration is granted, the enterprise shall keep performing all rights and obligations written on the Investment License or Investment Certificate (also Certificate of Business Registration) or the equivalent document.

2. In case of adjustment of both business registration information and information about the project, the enterprise shall follow procedures for adjusting business registration information at a business registration authority in order to obtain a Certificate of Enterprise Registration as set out in Clause 1 of this Article. After a Certificate of Enterprise Registration is granted, the enterprise shall adjust information about the project at an investment registration authority in order to obtain the Investment Registration Certificate as set out in Article 62 of this Decree.

3. In case of adjustment to information about registration of a branch or representative office of an enterprise operating under an Investment License or Investment Certificate (also Certificate of Business Registration) or an equivalent document granted before the effective date of the Law on Investment, the enterprise shall follow procedures for adjustment of the Certificate of Branch/Representative Office Registration as set out in Clause 1 and Clause 2 of this Article.

Article 64. Regulations applied to investors that have made commitments transfer their assets to Vietnam's government without compensation

1. With regard to a project that has commitments to transfer its assets to Vietnam's government or a Vietnam's state-owned enterprise without compensation, the investor therein must not change the commitments to asset transfer without compensation unless permitted by a competent authority.

2. Assets transferred without compensation mentioned in Clause 1 of this Article shall be kept intact until they are transferred to the Vietnamese party or Vietnam's government.

Article 65. Shutdown, restructuring, dissolution of enterprises operating under Investment Licenses or Investment Certificates (also Certificates of Business Registration)

1. An enterprise operating under an Investment License or Investment Certificate (also Certificate of Business Registration) shall follow procedures for suspension, shutdown, restructuring, or dissolution at a business registration authority.
2. Documentations and procedures for suspension, shutdown, restructuring, or dissolution of enterprises operating under Investment Licenses or Investment Certificates (also Certificates of Business Registration) shall comply with regulations of law on enterprises.

Section 2. IMPLEMENTATION CLAUSES

Article 66. Effect

1. This Decree comes into force from December 27, 2015 and replaces the Government's Decree No. 108/2006/ND-CP dated September 22, 2006.
2. The following documents are annulled:
 - a) List of areas eligible for corporate income tax incentives promulgated together with the Government's Decree No. 218/2013/ND-CP dated December 26, 2013;
 - b) List of business lines eligible for import duty incentives promulgated together with the Government's Decree No. 87/2010/ND-CP dated August 13, 2010;
 - c) Clause 4 Article 19 and “List of administrative divisions eligible for land rent incentives” in Clause 3 Article 19 of the Government's Decree No. 46/2014/ND-CP dated May 15, 2014.
3. If the Investment Registration Certificate is required while following administrative procedures but the project is not required to have an Investment Registration Certificate as set out in the Law on Investment, the investor is not required to submit the Investment Registration Certificate.

Article 67. Responsibility for implementation

1. The Ministry of Planning and Investment shall promulgate specific regulations on establishment, management, and operation of venture capital funds; provide instructions on transition in the cases not specified in Section 1 Chapter VI and other regulations of this Decree.
2. Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of the People’s Committees of provinces shall provide guidance on the implementation of this Decree within the scope of their competence./.

**ON BEHALF OF THE PRIME
MINISTER
THE PRIME MINISTER**

Nguyen Tan Dung

APPENDIX I

LIST OF BUSINESS LINES ELIGIBLE FOR INVESTMENT INCENTIVES
(Promulgated together with the Government's Decree No. 118/2015/ND-CP dated November 12, 2015)

A. BUSINESS LINES ELIGIBLE FOR SPECIAL INVESTMENT INCENTIVES

I. HIGH TECHNOLOGY, INFORMATION TECHNOLOGY, ANCILLARY INDUSTRIES

1. Application of high technologies on the List of high technologies given priority under the Prime Minister's decisions.
2. Production of products on the list of hi-tech products given priority under the Prime Minister's decisions.
3. Production of ancillary industry products under the Prime Minister's decisions.
4. Development of high technologies and high technology enterprises; venture investment in high technology development; application, research and development of high technology according to regulations of law on high technology; manufacturing of biotechnology products.
5. Production of software products, digital products, key information technology products, software service, information security services, information protection service according to regulations of law on information technology.
6. Production of renewable energy, clean energy, and waste-to-energy production.
7. Manufacture of composite materials, light building materials, and rare materials.

II. AGRICULTURE

1. Cultivation, protection, and development of forests.
2. Farming, processing, preserving agriculture, forestry, and aquaculture products.
3. Production, breeding, cross-breeding plant varieties, animal breeds, and aquatic breeds.

4. Salt production, extraction, and refinement.
5. Offshore fishing combined with advanced fishing methods; fishing logistics services; construction of shipyards and ship-building.
6. Rescue services at sea.

III. ENVIRONMENTAL PROTECTION, INFRASTRUCTURE CONSTRUCTION

1. Concentrated waste collection, treatment, recycling, and reuse.
2. Construction, operation of infrastructure of industrial parks, export-processing zones, hi-tech zones, and specialized areas in economic zones.
3. Development of water plants, power plants, water supply and drainage system; bridges, roads, railroads, airports, seaports, river ports; airfields, train stations, and other particularly important infrastructural works decided by the Prime Minister.
4. Development of public transportation in urban areas.
5. Construction, management, and operation of rural markets.

IV. CULTURE, SOCIETY, SPORTS, HEALTHCARE

1. Construction of social houses and relocation housing.
2. Investment in epidemic prevention facilities.
3. Research and development of preparation technology and biotechnology for production of new medicines.
4. Production of medicines ingredients and essential medicines, medicines for prevention and treatment of sexually transmitted diseases, vaccines, biological, herbal medicines, oriental medicines; medicines whose patents are about to expire or relevant proprietary medicines; application of advanced technology and biotechnology to production of medicines for humans according to international GMP standards; production of primary packages of medicines.
5. Investment in manufacture of methadone.
6. Investment in centers for high-performance sports, sports training centers for the disabled; construction of sports facilities having training and competition equipment suitable for used at international competitions; professional sports training facilities.
7. Investment in geriatric centers, psychiatry centers, centers for treatment of dioxin patients, centers for caring elders, the disabled, orphans, and homeless children.

8. Investment in Social Treatment – Education – Labor centers; rehabilitation centers smoking cessation centers; HIV/AIDS treatment centers.

9. Investment in national museums, ethnic culture centers; traditional theatre groups; theatres, film studios, film production facilities, film development facilities; fine art – photography exhibition centers; production, repair of traditional musical instruments, maintenance of ethnic museums and art schools; facilities and trade villages for introduction and development of traditional trades.

B. BUSINESS LINES ELIGIBLE FOR INVESTMENT INCENTIVES

I. SCIENCE AND TECHNOLOGY, ELECTRONICS, MECHANICS, MATERIAL PRODUCTION, INFORMATION TECHNOLOGY

1. Production of products on the list of key mechanical products under the Prime Minister's decisions.
2. Investment in research and development.
3. Production of steel billets from iron ore, high-grade steel, alloys.
4. Production of coke and activated carbon.
5. Production of energy-saving products.
6. Production of petrochemical products, pharmaceutical-chemical products, technical plastic – rubber components.
7. Production of products with at least 30% added value (according to instructions of the Ministry of Planning and Investment).
8. Production of automobiles, automobile parts, ship-building.
9. Production of electronic components and electronic clusters other than those specified in (A).
10. Production of farming machines, equipment, components, machines serving agriculture, forestry, aquaculture, salt production, food processing machines, and irrigation equipment other than those specified in (A).
11. Production of materials to replace asbestos.

II. AGRICULTURE

1. Cultivating, gathering, processing herbs; protection of genetic resources, rare and special herbs.

2. Production, processing of animal feeds.
3. Technological services related to cultivation, breeding, aquaculture, protection of plants and animals.
4. Construction, upgrade or slaughterhouses; industrial preservation and processing poultry and livestock.
5. Development of material areas serving processing industry.
6. Fishing.

III. ENVIRONMENTAL PROTECTION, INFRASTRUCTURE CONSTRUCTION

1. Construction and development of infrastructure of industrial complexes.
2. Construction of apartment buildings for workers in industrial parks, export-processing zones, hi-tech zones, economic zones; construction of dormitories for students and houses for beneficiaries of incentive policies; construction of urban areas (including kindergartens, schools, hospitals) serving workers.
3. Recovery of oil spill, landslide, dyke, riverbank, seashore, dam, reservoir erosion, and other environmental emergencies; application of technology to minimization of greenhouse gas emission.
4. Investment in operation of exhibition centers, logistics centers, warehouses, supermarkets, shopping malls.

IV. EDUCATION, CULTURE, SOCIETY, SPORTS, HEALTHCARE

1. Investment in operation of infrastructure of educational institutions, development of non-public educational institutions, including preschool education, compulsory education, and vocational education,
2. Production of medical equipment, construction of warehouses for preservation of pharmaceuticals and reserve of medicines for humans in case of disasters, epidemics.
3. Manufacture of ingredients of medicines and pesticides; drugs for animals and aquatic organisms.
4. Investment in biological testing facilities, bioavailability assessment, pharmaceutical facilities that meet good practice standards for manufacturing, preservation, testing, clinical trial of medicines.
5. Investment in research into scientific foundation of traditional medicines and establishment of standards for testing traditional medicines

6. Investment in sports centers, stadiums, swimming pools; facilities for production, repair sports equipment.

7. Investment in public libraries and cinemas.

8. Investment in construction of cemeteries, crematories.

V. OTHER BUSINESS LINES

1. People's credit funds and microfinance institutions.

APPENDIX II

LIST OF AREAS ELIGIBLE FOR INVESTMENT INCENTIVES

(Promulgated together with the Government's Decree No. 118/2015/ND-CP dated November 12, 2015)

No.	Province	Region of exceptional socio-economic difficulties	Region of socio-economic difficulties
1	Bac Kan	All districts, towns, and Bac Kan city	
2	Cao Bang	All districts and Cao Bang city	
3	Ha Giang	All districts and Ha Giang city	
4	Lai Chau	All districts and Lai Chau city	
5	Son La	All districts and Son La city	
6	Dien Bien	All districts, towns, and Dien Bien city	
7	Lao Cai	All districts	Lao Cai city
8	Tuyen Quang	Na Hang, Chiem Hoa, Lam Binh districts	Ham Yen, Son Duong, Yen Son districts and Tuyen Quang city
9	Bac Giang	Son Dong district	Luc Ngan, Luc Nam, Yen The, Hiep Hoa districts
10	Hoa Binh	Da Bac, Mai Chau districts	Kim Boi, Ky Son, Luong Son, Lac Thuy, Tan Lac, Cao Phong, Lac Son, Yen Thuy districts
11	Lang Son	Binh Gia, Dinh Lap, Cao Loc, Loc Binh, Trang Dinh, Van Lang, Van Quan, Bac Son districts	Chi Lang, Huu Lung districts

12	Phu Tho	Thanh Son, Tan Son, Yen Lap districts	Doan Hung, Ha Hoa, Phu Ninh, Thanh Ba, Tam Nong, Thanh Thuy, Cam Khe districts
13	Thai Nguyen	Vo Nhai, Dinh Hoa, Dai Tu, Phu Luong, Dong Hy districts	Pho Yen, Phu Binh districts
14	Yen Bai	Luc Yen, Mu Cang Chai, Tram Tau districts	Tran Yen, Van Chan, Van Yen, Yen Binh, and Nghia Lo town
15	Quang Ninh	Ba Che, Binh Lieu districts, Co To islands, and other islands in the province	Van Don, Tien Yen, Hai Ha, Dam Ha districts
16	Hai Phong	Bach Long Vi, Cat Hai islands	
17	Ha Nam		Ly Nhan, Thanh Liem, Binh Luc districts
18	Nam Dinh		Giao Thuy, Xuan Truong, Hai Hau, Nghia Hung districts
19	Thai Binh		Thai Thuy, Tien Hai districts
20	Ninh Binh		Nho Quan, Gia Vien, Kim Son, Tam Diep, Yen Mo districts
21	Thanh Hoa	Muong Lat, Quan Hoa, Quan Son, Ba Thuoc, Lang Chanh, Thuong Xuan, Cam Thuy, Ngoc Lac, Nhu Thanh, Nhu Xuan districts	Thach Thanh, Nong Cong districts
22	Nghe An	Ky Son, Tuong Duong, Con Cuong, Que Phong, Quy Hop, Quy Chau, Anh Son districts	Tan Ky, Nghia Dan, Thanh Chuong districts, and Thai Hoa town
23	Ha Tinh	Huong Khe, Huong Son, Vu Quang, Loc Ha, Ky Anh districts	Duc Tho, Nghi Xuan, Thach Ha, Cam Xuyen, Can Loc districts
24	Quang Binh	Tuyen Hoa, Minh Hoa, Bo Trach districts	Other districts and Ba Don town
25	Quang Tri	Huong Hoa, Da Krong districts, Con Co island and other islands of the province	Other districts
26	Thua Thien Hue	A Luoi, Nam Dong districts	Phong Dien, Quang Dien, Phu Loc, Phu Vang districts and Huong Tra town
27	Da Nang	Hoang Sa archipelago	
28	Quang Nam	Dong Giang, Tay Giang, Nam Giang, Phuoc Son, Bac Tra My,	Dai Loc, Que Son, Phu Ninh, Duy Xuyen districts

		Nam Tra My, Hiep Duc, Tien Phuoc, Nui Thanh, Nong Son, Thang Binh districts and Cu Lao Cham island	
29	Quang Ngai	Ba To, Tra Dong, Son Tay, Son Ha, Minh Long, Binh Son, Tay Tra, Son Tinh districts and Ly Son island	Nghia Hanh district
30	Binh Dinh	An Lao, Vinh Thanh, Van Canh, Phu Cat, Tay Son, Hoai An, Phu My districts	Tuy Phuoc districts
31	Phu Yen	Song Hinh, Dong Xuan, Son Hoa, Phu Hoa, Tay Hoa districts	Song Cau town; Dong Hoa, Tuy An districts
32	Khanh Hoa	Khanh Vinh, Khanh Son districts, Truong Sa archipelago and other islands of the province	Van Ninh, Dien Khanh, Cam Lam districts, Ninh Hoa town, and Cam Ranh city
33	Ninh Thuan	All districts	Phan Rang - Thap Cham city
34	Binh Thuan	Phu Quy district	Bac Binh, Tuy Phong, Duc Linh, Tanh Linh, Ham Thuan Bac, Ham Thuan Nam, Ham Tan districts
35	Dak Lak	All districts and Buon Ho town	Buon Ma Thuot city
36	Gia Lai	All districts and towns	Pleiku city
37	Kon Tum	All districts and cities	
38	Dak Nong	All districts and towns	
39	Lam Dong	All districts	Bao Loc city
40	Ba Ria - Vung Tau	Con Dao district	Huyen Tan Thanh, Chau Duc, Xuyen Moc
41	Tay Ninh	Tan Bien, Tan Chau, Chau Thanh, Ben Cau districts	Other districts
42	Binh Phuoc	Loc Ninh, Bu Dang, Bu Dop, Bu Gia Map, Phu Rieng districts	Dong Phu, Chon Thanh, Hon Quan districts, Binh Long town, and Phuoc Long town
43	Long An	Duc Hue, Moc Hoa, Vinh Hung, Tan Hung districts	Kien Tuong town; Tan Thanh, Duc Hoa, Thanh Hoa districts
44	Tien Giang	Tan Phuoc, Tan Phu Dong districts	Go Cong Dong, Go Cong Tay districts
45	Ben Tre	Thanh Phu, Ba Tri, Binh Dai districts	Other districts
46	Tra Vinh	Chau Thanh, Tra Cu districts	Cau Ngang, Cau Ke, Tieu Can districts, and Tra Vinh city

47	Dong Thap	Hong Ngu, Tan Hong, Tam Nong, Thap Muoi districts, and Hong Ngu town	Other districts
48	Vinh Long		Tra On, Binh Tan, Vung Liem, Mang Thit, Tam Binh districts
49	Soc Trang	All districts, Vinh Chau town, and Nga Nam town	Soc Trang city
50	Hau Giang	All districts and Nga Bay town	Vi Thanh city
51	An Giang	An Phu, Tri Ton, Thoai Son, Tinh Bien districts, and Tan Chau town	Chau Doc city and other districts
52	Bac Lieu	All districts and towns	Bac Lieu city
53	Ca Mau	All districts and islands of the province	Ca Mau city
54	Kien Giang	All districts, islands of the province, and Ha Tien town	Rach Gia city
55		Economic zones, hi-tech zones (including concentrated information technology zones established under regulations of the Government)	Industrial parks, export-processing zones established under regulations of the Government.

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SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom – Happiness

Form No.: **02/TK-SDDPNN**
*(Promulgated together with the
Circular No.156/2013/TT-BTC,
of November 06, 2013 of the
Ministry of Finance)*

NON-AGRICULTURAL LAND USE TAX DECLARATION

(For organization)

[01] Tax period: ... (yy)

[02] First time: ☐

[03] Adjustment:

Currency unit: Vietnamdong

1. Taxpayer

[04] Name of organization: _____ [05] Tax code: _____

[06] Address to received tax notice: _____

[06.1] Hamlet: _____ [06.2] District: _____

[06.3] District: _____ [06.4] City/Province : _____

[07] Tel: _____ [08] Account No (If any): _____

[09] Name of organization: _____

2. Tax agents (If any)

[10] Tax code: _____

[11] Address to received tax notice: _____

[11.1] District: _____

[11.2] District: _____ [11.3] City/Province: _____

[11.4] Tel: _____ [11.5] Fax: _____ [11.6] Email:.....

[11.7] Tax agents contract: _____ No: _____ Date .../.../.....

3. Taxable land parcel

[12] Address: _____ [13] Village: _____

[14] Sub-district: _____ [15] District: _____ [16] City/Province: _____

[17] Certificate No: _____ [17.1] Date: _____

[17.2] Land parcel No: _____ [17.3] Map No: _____ [17.4] Area: _____

[17.5] Issue: _____

4. [18] Tax exemption and reduction agents:

5. Tax bases:

[19] Current Area used: _____

[20] Information of identification of land price:

[20.1] Type of land: _____

[20.2] Route/Zone name: _____

[20.3] Route/Area: _____

[20.4] Type of road: _____ [20.5] Position: _____

[20.6] Land price:	[20.7] Factor (road/alley):
[20.8] Price 1 m ² of land (<i>price as land purpose</i>):	

6. Calculation of tax

6.1. Residential land (Calculator for residential land, including land use for business)

Calculation base on land area.

[21] Land area:	[22] The paid tax amount :
$[22]=[21]*[20.8]*0,03\%$	

6.2. Residential land of a multi-story building, many users – Calculation on using for the proper purpose

[23] Land area:	[24] The allocation coefficient:	[25] The paid tax amount:
		$[25]=[23]*[24]*[20.8]*0,03\%$

6.3. Production and business land – Calculation on the area used for the right purpose

[26] Land area:	[27] The paid tax amount ($[27]=[26]*[20.8]*0,03\%$):
-----------------	---

6.4. Land used for improper purposes or land not yet used under regulations:

[28] The purpose using:	[29] The allocation coefficient (For condominiums): (If do not fill or to be 0, the allocation shall be 1)
[30] Land area:	[31] Land price on 1m2::
[32] The paid tax amount ($[32]=[30]*[31]*[29]*0,15\%$):	

6.5. The encroached land, occupied land

[33] The land using rights::	[34] The allocation coefficient (For condominiums): (If do not fill or to be 0, the allocation shall be 1)
[35] Land area:	[36] Land price on 1m2::
[37] The paid tax amount ($[37]=[35]*[36]*[34]*0,2\%$):	

7. [38] The total of paid tax before exemption ($[38]=[22]+[25]+[27]+[32]+[37]$):

8. [39] The exemption tax:

9. [40] The total of paid tax: $[40]=[38] - [39]$

10. [41] Paid once for 5 years (in stable period of 5 years) ($[41]=[40]*5$):

11 . Tax payment deadline:

- ☐ Paid once in year.
- ☐ Paid tax 2 times in year.
- ☐ Paid tax in stable period: Year:

I hereby commit that figures and documents in this form are right and I am responsible before law for the figures and documents./.

..., (date & location)

TAX AGENCY STAFF

Name:

TAX practicing certificate No:.....

**TAXPAYER or
LEGAL REPRESENTATIVE OF TAXPAYER**

