

THE PRESIDENT

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom – Happiness

No. 31/2014/L-CTN

Hanoi, December 8, 2014

ORDER
On the promulgation of law¹

THE PRESIDENT OF
THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 88 and 91 of the Constitution of the Socialist Republic of Vietnam;

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

Pursuant to Article 57 of the Law on Promulgation of Legal Documents,

PROMULGATES

The Law Amending and Supplementing a Number of Articles of the Laws on Taxes,

which was passed on November 26, 2014, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 8th session.-

President of the Socialist Republic of Vietnam
TRUONG TAN SANG

¹ Công Báo Nos 1173-1174 (30/12/2014)

THE PRESIDENT

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 71/2014/QH13

LAW

Amending and Supplementing a Number of Articles of the Laws on Taxes²

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of Law No. 14/2008/QH12 on Enterprise Income Tax, which was amended and supplemented under Law No. 32/2013/QH13; Law No. 04/2007/QH12 on Personal Income Tax, which was amended and supplemented under Law No. 26/2012/QH13; Law No. 13/2008/QH12 on Value-Added Tax, which was amended and supplemented under Law No. 31/2013/QH13; Law No. 45/2009/QH12 on Royalties; Law No. 78/2006/QH11 on Tax Administration, which was amended and supplemented under Law No. 21/2012/QH13; Law No. 27/2008/QH12 on Excise Tax, Law No. 45/2005/QH11 on Export Duty and Import Duty, and Law No. 54/2014/QH13 on Customs.

Article 1.

To amend and supplement a number of articles of Law No. 14/2008/QH12 on Enterprise Income Tax, which was amended and supplemented under Law No. 32/2013/QH13.

1. To amend and supplement Clause 2, Article 3 as follows:

“2. Other incomes include income from the transfer of capital or transfer of the capital-contributing rights; income from the transfer of real estate, transfer of investment projects, transfer of the right to participate in investment projects or transfer of the right to explore, exploit and process minerals; income from asset use rights or asset ownership rights, including income from intellectual property rights in accordance with law; income from the transfer, lease or liquidation of assets, including also valuable papers; income from

² Công Báo Nos 1173-1174 (30/12/2014)

interest on deposits, loans provided or foreign currencies sold; revenue from written-off bad debts which are now recovered; revenue from debts owed to unidentified creditors; omitted income from business activities of previous years, and other incomes.

Vietnamese enterprises that are engaged in offshore investment activities and remit their incomes to Vietnam after paying enterprise income tax in foreign countries shall comply with the double taxation avoidance agreements concluded between Vietnam and such countries, for foreign countries with which Vietnam has concluded double taxation avoidance agreements. For foreign countries with which Vietnam has not yet concluded any double taxation avoidance agreement, if the enterprise income tax rate applicable in a country from which incomes are remitted to Vietnam is lower than that prescribed by the Vietnamese law on enterprise income tax, only difference must be collected.”

2. To amend and supplement Clause 1, Article 4 as follows:

“1. Cooperatives’ incomes from cultivation, husbandry, agricultural and aquatic product processing and salt production; incomes from agricultural, forestry, fishing and salt production of cooperatives operating in areas with difficult or extremely difficult socio-economic conditions; enterprises’ incomes from cultivation, husbandry, agricultural and aquatic product processing carried out in areas with extremely difficult socio-economic conditions; and incomes from marine fishing.”

3. To amend and supplement Point a, Clause 1, Article 9 as follows:

“a/ Actual expenses related to the enterprise’s production and business activities; expenses paid for vocational training activities; expenses paid for the performance of the enterprise’s national defense and security tasks in accordance with law;”

4. To annul Point m, Clause 2, Article 9.

5. To add the following Points dd and e to Clause 1, Article 13:

“dd/ Enterprises’ incomes from the implementation of new investment projects to manufacture products on the list of products of support industries prioritized for development that fall into one of the following categories:

- Products of support industries for high technologies provided in the Law on High Technologies;

- Products of support industries for the manufacture of products of textile and garment, leather and footwear and electronic and informatics industries; automobile manufacture and assembly; and mechanical engineering, which cannot be manufactured in the country or can be manufactured in the country

but must meet the European Union technical standards or equivalent standards by January 1, 2015.

The Government shall promulgate the list of products of support industries prioritized for development specified in this Clause;

e/ Enterprises' incomes from the implementation of investment projects in the manufacturing fields, except projects to produce goods liable to excise tax and mining projects, which are capitalized at twelve trillion Vietnam dong or more, use technologies subject to appraisal under the Law on High Technologies and the Law on Science and Technology, are planned to disburse their total registered capital amounts within five years from the date of investment licensing under the investment law."

6. To amend and supplement Point d, Clause 2, Article 13 as follows:

"d/ Enterprises' incomes from planting, tending and protecting forests; farming and processing agricultural and aquatic products in areas with difficult socio-economic conditions; farming and rearing forest products in areas with difficult socio-economic conditions; producing, propagating and hybridizing plant varieties and animal breeds; producing, exploiting and refining salt, except salt production prescribed in Clause 1, Article 4 of this Law; and investing in the post-harvest preservation of agricultural products and preservation of agricultural and aquatic products and food;"

7. To add the following Clause 3a to Clause 3, Article 13:

"3a. To apply the tax rate of 15% to enterprises' incomes from cultivation, husbandry and processing of agricultural and aquatic products carried out outside areas with difficult or extremely difficult socio-economic conditions."

8. To amend and supplement Clause 5, Article 13 as follows:

"5. The extension of the period of application of preferential tax rates is provided as follows:

a/ For large-sized hi-tech projects which need special investment attraction, the period of application of preferential tax rates may be extended for not more than fifteen years;

b/ Projects specified at Point e, Clause 1 of this Article must meet one of the following criteria:

- Manufacturing products that are globally competitive, earning an annual turnover of over 20 trillion Vietnam dong within five years from the first year of turnover generation;

- Regularly employing over six thousand workers;

- Investment projects in the field of economic and technical infrastructure, including development investment in water plants, power plants, water supply and drainage system, bridges, roads, railways, airports, seaports, river ports, air terminals, railway stations, new energies, clean energies, energy-efficient industries, and petrochemical projects.

The Prime Minister may decide on the extension of the period of application of preferential tax rates specified at this Point for not more than fifteen years.”

9. To amend and supplement Clause 3, Article 2 of Law No. 32/2013/QH13 as follows:

“3. Enterprises having investment projects are entitled to enterprises income tax preferences under the enterprise income tax law applicable at the time of grant of investment licenses or certificates under the investment law. In case the enterprise income tax law is revised and an enterprise meets the tax preference conditions set by the new law, such enterprise may choose to enjoy the preferential tax rate and tax exemption and reduction periods prescribed by the law applicable at the time of licensing or the new law for the remaining period.

By the end of the 2015 tax period, if an enterprise having investment projects eligible for the preferential tax rate of 20% prescribed in Clause 3, Article 13 of Law No. 14/2008/QH12 on Enterprise Income Tax, which was amended and supplemented under Law No. 32/2013/QH13, it may apply the tax rate of 17% for the remaining period from January 1, 2016.”

Article 2.

To amend and supplement a number of articles of Law No. 04/2007/QH12 on Personal Income Tax, which was amended and supplemented under Law No. 26/2012/QH13.

1. To amend and supplement Clause 1, Article 3 as follows:

“1. Incomes from business activities, including:

a/ Incomes from goods production or trading or service provision;

b/ Incomes from independent professional activities of individuals possessing practice licenses or certificates in accordance with law.

Incomes from business activities specified in this Clause exclude incomes of businesspeople who have an annual turnover of 100 million Vietnam dong or less.”

2. To amend and supplement Point c, Clause 6, Article 3 as follows:

“c/ Betting winnings;”

3. To add the following Clauses 15 and 16 to Article 4:

“15. Incomes from salaries or wages of Vietnamese crewmembers working for foreign shipping companies or Vietnamese shipping companies engaged in international transportation.

16. Incomes of individual shipowners, individuals having the right to use ships and people working on board ships from the provision of goods and services to directly serve offshore fishing activities.”

4. To amend and supplement Article 10 as follows:

“Article 10. Tax applicable to businesspeople

1. Businesspeople shall pay personal income tax calculated as a certain percentage of turnover in each field, industry or business line.

2. Turnover means total sales, processing remuneration, commissions, service provision charges generated in a tax period from goods production and trading or service provision.

In case businesspeople cannot identify their turnover, a competent tax agency shall predetermine turnover in accordance with the tax administration law.

3. Tax rates:

a/ Goods distribution and supply: 0.5%;

b/ Services and construction activities without supply of raw materials and materials: 2%.

Particularly for asset lease, insurance agency, lottery agency and multi-level marketing agency: 5%;

c/ Production, transportation and services associated with goods, construction activities involving supply of raw materials and materials: 1.5%;

d/ Other business activities: 1%.”

5. To amend Article 13 as follows:

“Article 13. Taxable incomes from capital transfer

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

For securities transfer, a taxable income is determined to be the transfer price for each transfer.

2. Time of determination of a taxable income from capital transfer is the time when the capital transfer transaction is completed in accordance with law.

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

6. To amend and supplement Article 14 as follows:

“Article 14. Taxable incomes from real estate transfer

1. A taxable income from real estate transfer is determined to be the transfer price for each transfer.

2. The Government shall stipulate principles and methods of determination of real estate transfer price.

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

7. To amend and supplement Clause 2, Article 23 as follows:

“2. The whole income tariff is prescribed as follows:

Taxable incomes	Tax rate (%)
a/ Incomes from capital investment	5
b/ Incomes from copyright, commercial franchising	5
c/ Incomes from prizes	10
d/ Incomes from inheritances, gifts	10
dd/ Incomes from capital transfer specified in Clause 1, Article 13 of this Law	20
Incomes from securities transfer specified in Clause 1, Article 13 of this Law	0.1
e/ Incomes from real estate transfer	2

Article 3.

To amend and supplement a number of articles of Law No. 13/2008/QH12 on Value-Added Tax, which was amended and supplemented under Law No. 31/2013/QH13.

1. To add the following 3a to Clause 3, Article 5:

“3a. Fertilizers; machinery, special-use equipment for agricultural production; offshore fishing vessels; and feeds for cattle, poultry and other domestic animals;”

2. To amend and supplement Point b, Clause 2, Article 8 as follows:

“b/ Ores for fertilizer production; pesticides and plant and animal growth stimulants;”

3. To annul Points c and k, Clause 2, Article 8.

Article 4.

To amend and supplement a number of articles of Law No. 45/2009/QH12 on Royalties.

1. To amend and supplement Clause 7, Article 2 as follows:

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

2. To amend and supplement Clause 5, Article 9 as follows:

“5. Royalties are exempted for natural water exploited by households and individuals for daily-life use.”

Article 5.

To amend and supplement a number of articles of Law No. 78/2006/QH11 on Tax Administration, which was amended and supplemented under Law No. 21/2012/QH13.

1. To amend and supplement Clauses 1, 1a and 6, Article 31 as follows:

“1. For taxes declared and paid on a monthly basis, a tax declaration dossier is a monthly tax return;

1a. For taxes declared and paid on a quarterly basis, a tax declaration dossier is a quarterly tax return;”

“6. The Government shall provide taxes subject to monthly, quarterly or annual declaration, quarterly declaration for temporary calculation, declaration upon each time of arising of tax liability, and tax finalization declaration; criteria for identification of taxpayers to make quarterly tax declaration and tax declaration dossier on a case-by-case basis.”

2. To amend and supplement Article 43 as follows:

“Article 43. Currency for determination of turnover, expenses, taxable prices and taxes to be remitted into the state budget

Taxpayers shall determine turnover, expenses, taxable prices and taxes to be remitted into the state budget in Vietnam dong, except cases of tax payment in foreign currencies under the Government's regulations. In case turnover is generated, expenses and taxable prices are paid in foreign currencies or taxpayers are obliged to pay taxes in foreign currencies but permitted by competent authorities to pay taxes in Vietnam dong, taxpayers shall convert foreign currencies into Vietnam dong at actual exchange rates applicable at the time of arising of such foreign-currency amounts.

The Government shall detail and guide this Article.”

3. To add the following Clause 11 to Article 7:

“11. Based on the practical situation and information technology conditions, the Government shall specify cases in which taxpayers are not required to submit documents in tax payment declaration, tax refund and other tax-related dossiers which state management agencies have on hand.”

4. To amend and supplement Clause 1, Article 106 as follows:

“1. A taxpayer that pays tax after the prescribed time limit or extended time limit for tax payment or the time limit stated in the notice or handling decision of a tax administration agency shall fully pay tax amounts and late payment interest at the rate of 0.05% of the late paid tax amount per each day of late payment.

For taxpayers that supply goods or services to be paid with the state budget, if they fail to pay tax on time because they have not yet received any payments from the state budget, they do not have to pay late payment interests for owed tax amounts, which must not exceed the amounts not yet paid from the state budget.”

Article 6.

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

2. To annul provisions on exchange rates for determination of turnover, expenses, taxable prices, taxable incomes, taxed incomes and taxes to be remitted into the state budget in:

a/ Article 8 and Clause 3, Article 9 of Law No. 14/2008/QH12 on Enterprise Income Tax, which was amended and supplemented under Law No. 32/2013/QH13;

b/ Clause 1, Article 6 of Law No. 04/2007/QH12 on Personal Income Tax, which was amended and supplemented under Law No. 26/2012/QH13;

c/ Clause 3, Article 7 of Law No. 13/2008/QH12 on Value-Added Tax, which was amended and supplemented under Law No. 31/2013/QH13;

d/ Article 6 of Law No. 27/2008/QH12 on Excise Tax;

dd/ Clause 3, Article 9 and Article 14 of Law No. 45/2005/QH11 on Export Duty and Import Duty;

e/ Clause 4, Article 86 of Law No. 54/2014/QH13 on Customs.

3. To annul Point c, Clause 1, Article 49 of Law No. 78/2006/QH11 on Tax Administration, which was amended and supplemented under Law No. 21/2012/QH13.

4. To annul provisions on determination of tax applicable to businesspeople specified in Clause 1, Article 19; Clause 1, Article 20; and Clause 1, Article 21 of Law No. 04/2007/QH12 on Personal Income Tax, which was amended and supplemented under Law No. 26/2012/QH13.

5. The Government and competent agencies shall detail articles and clauses in this Law as assigned.

This Law was passed on November 26, 2014, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 8th session.-

Chairman of the National Assembly
NGUYEN SINH HUNG