

THE NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Law No. 71/2014/QH13

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 emended 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 (%)
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