

LAW

Amending and Supplementing a Number of Articles of the Law on Value-Added Tax, the Law on Excise Tax and the Law on Tax Administration

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. 13/2008/QH12 on Value-Added Tax which was amended and supplemented under Law No. 31/2013/QH13, Law No. 27/2008/QH12 on Excise Tax which was amended and supplemented under Law No. 70/2014/QH13, and Law No. 78/2006/QH11 on Tax Administration which was amended and supplemented under Law No. 21/2012/QH13 and Law No. 71/2014/QH13.

Article 1

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 as follows:

1. To amend Clauses 1, 9 and 23, Article 5 as follows:

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

Enterprises and cooperatives that purchase cultivation and husbandry products, and reared and fished aquatic products which have not yet been processed into other products or have been just preliminarily processed for sale to other enterprises and cooperatives are not required to declare, calculate and pay value-added tax, and may have input value-added tax credited.”

“9. Healthcare and animal health services, including medical examination and treatment and preventive services for humans and domestic animals; and healthcare services for the elderly and disabled.”

“23. Exported products which are mined natural resources or minerals not yet processed into other products; or which are goods processed from mined natural resources and minerals with the total value of natural resources and minerals plus energy cost accounting for at least 51% of the product costs.”

2. To amend and supplement Point g, Clause 1, Article 8 as follows:

“g/ Exported products prescribed in Clause 23, Article 5 of this Law.

Exported goods and services are goods and services used outside Vietnam and in non-tariff areas; and goods and services supplied to foreign customers under the Government's regulations."

3. To amend and supplement Clauses 1 and 2, Article 13 as follows:

"1. A business establishment that pays value-added tax according to the tax credit method and has the input value-added tax amount not yet fully credited in a month or a quarter may have such tax credited in the next period.

A business establishment that has registered to pay value-added tax according to the tax credit method shall be entitled to tax refund if it has a new project currently in the investment phase and has an amount of value-added tax on purchased goods or services used for investment not yet credited while the remaining tax amount is VND 300 million or more.

A business establishment shall not be entitled to value-added tax refund but may carry forward the value-added tax amount not yet credited under its investment projects to the next period under the investment law if:

a/ The investment project fails to have sufficient charter capital as registered; the business establishment conducts conditional business investment lines but fails to fully satisfy the business conditions prescribed in the Investment Law or fails to maintain business conditions during its operation;

b/ The investment project on mining natural resources and minerals is licensed on or after July 1, 2016, or the investment project on product or goods production with the total value of natural resources and minerals plus energy cost accounting for at least 51% of the product costs.

The Government shall prescribe in detail this Clause.

2. A business establishment that exports goods or services in a month or quarter shall be entitled to value-added tax refund on a monthly or quarterly basis if it has a non-credited input value-added tax amount of VND 300 million or more, except goods imported for export or goods for export but not exported in customs operation areas under the Customs Law. Taxpayers that produce exported goods and do not violate the tax or customs law during 2 consecutive years and taxpayers that are not prone to high risks under the Law on Tax Administration shall be entitled to tax refund before customs inspection."

Article 2

To amend and supplement a number of articles of Law No. 27/2008/QH12 on Excise Tax which was amended and supplemented under Law No. 70/2014/QH13 as follows:

1. To amend and supplement Clauses 1 and 2, Article 6 as follows:

"1. For domestically produced goods and imported goods, it is the selling price set by the producer or the importer.

In case excise tax-liable goods are sold to commercial business establishments that have the parent company-subsidiary relationship or are subsidiaries of the same parent company with the producer or importer, or sold to commercial business establishments that have association relationships, the excise taxed price must not be lower in a certain percentage than the average selling price set by commercial business establishments that directly buy goods from the producer or importer under the Government's regulations;

For imported goods at the stage of importation, it is the import-duty calculation price plus the import duty. For imported goods eligible for import duty exemption or reduction, it is exclusive of the exempted or reduced import duty amount. For imported excise tax-liable goods, the excise tax amount already paid at the stage of importation shall be deducted when determining the amount of payable excise tax on the goods sold;”

2. To amend and supplement Clause 4, Section I of the Excise Tariff specified in Article 7 as follows:

No.	Goods or services	Tax rate (%)
4	Under-24 seat cars	
	a/ Passenger cars of 9 seats or fewer, except those specified at Points 4dd, 4e and 4g of the Tariff provided in this Article	
	- Of a cylinder capacity of 1,500 cm ³ or less	
	+ From July 1, 2016, through December 31, 2017	40
	+ From January 1, 2018	35
	- Of a cylinder capacity of between over 1,500 cm ³ and 2,000 cm ³	
	+ From July 1, 2016, through December 31, 2017	45
	+ From January 1, 2018	40
	- Of a cylinder capacity of between over	50

	2,000 cm ³ and 2,500 cm ³	
	- Of a cylinder capacity of between over 2,500 cm ³ and 3,000 cm ³	
	+ From July 1, 2016, through December 31, 2017	55
	+ From January 1, 2018	60
	- Of a cylinder capacity of between over 3,000 cm ³ and 4,000 cm ³	90
	- Of a cylinder capacity of between over 4,000 cm ³ and 5,000 cm ³	110
	- Of a cylinder capacity of between over 5,000 cm ³ and 6,000 cm ³	130
	- Of a cylinder capacity of over 6,000 cm ³	150
	b/ Passenger cars of between 10 seats and under 16 seats, except those specified at Points 4dd, 4e and 4g of the Tariff provided in this Article	15
	c/ Passenger cars of between 16 seats and under 24 seats, except those specified at Points 4dd, 4e and 4g of the Tariff provided in this Article	10
	d/ Cars for both passenger and cargo transportation, except those specified at Points 4dd, 4e and 4g of the Tariff provided in this Article	
	- Of a cylinder capacity of 2,500 cm ³ or less	15
	- Of a cylinder capacity of between over 2,500 cm ³ and 3,000 cm ³	20

	- Of a cylinder capacity of over 3,000 cm ³	25
	dd/ Cars operated by gasoline and electricity or bio-fuel, with gasoline accounting for at most 70% of the fuel used	70% of the tax rate for cars of the same kind as specified at Points 4a, 4b, 4c and 4d of the Tariff provided in this Article
	e/ Bio-fuel powered cars	50% of the tax rate for cars of the same kind as specified at Points 4a, 4b, 4c and 4d of the Tariff provided in this Article
	g/ Electricity-operated cars	
	- Passenger cars of 9 seats or fewer	15
	- Passenger cars of between 10 seats and under 16 seats	10
	- Passenger cars of between 16 seats and under 24 seats	5
	- Cars for both passenger and cargo transportation	10
	h/ Motorhomes regardless of cylinder capacity	
	- From July 1, 2016, through December 31, 2017	70
	- From January 1, 2018	75

Article 3

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 and Law No. 71/2014/QH13 as follows:

1. To amend and supplement Article 61 as follows:

“Article 61. Tax exemption or reduction

Tax administration agencies shall give tax exemption or reduction to cases eligible for tax exemption or reduction prescribed in legal documents on taxes and shall grant tax exemption for households and individuals that have an annual payable amount of non-agricultural land use tax of VND 50,000 or less.”

2. To amend and supplement Clause 4, Article 92 as follows:

“4. Not to take tax enforcement measures in case taxpayers are permitted by tax administration agencies to pay their tax arrears in installments within 12 months from the first day of the tax enforcement period. The payment of tax arrears in installments shall be considered at taxpayers’ request and guarantee by a credit institution is required. Taxpayers shall pay late-payment interests at a per diem rate of 0.03% of the late-paid tax amount.”

3. 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 after the time limit stated in the notice or handling decision of a tax administration agency shall fully pay the tax amount and late-payment interest at a per diem rate of 0.03% of the late paid tax amount.

Tax arrears arising before July 1, 2016, which have not yet been remitted by taxpayers into the state budget, including also tax arrears subject to retrospective collection as detected through inspection or examination results of competent agencies, shall be subject to the late-payment interests under this Clause from July 1, 2016.

Taxpayers that supply goods and services covered by state budget funds but have not yet received any payments, making them unable to promptly pay taxes and having to owe taxes, shall be exempt from late-payment interests on the owed tax amounts which must not exceed the amounts not yet paid by the state budget arising during the period the taxpayers do not yet receive the payments.”

4. To annul Clause 3, Article 42.

Article 4

1. This Law takes effect on July 1, 2016, except the provisions of Clause 2 of this Article.

2. Clause 4, Article 3 of this Law takes effect on September 1, 2016.

3. The Government shall detail the articles and clauses as assigned in this Law.

This Law was passed on April 6, 2016, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 11th session./.

Chairperson of the National Assembly
NGUYEN THI KIM NGAN