

Draft 17/12/2012

LAW
TO AMEND AND SUPPLEMENT A NUMBER OF ARTICLES OF
THE LAW ON VALUE-ADDED TAX

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly issues the Law on Value-Added Tax no 13/2008/QH12.

Article 1.

To amend and supplement a number of articles of the Law on Value-added Tax

1. Clause 7, 8, 15, 17 and 25 Article 5 amended and supplemented as follows:

“... 7. *Life insurance, health insurance, student insurance, insurance on humans, insurance on domestic animals, insurance on plants, other agricultural insurance services, fishery insurance and reinsurance.*

8. *Credit provision services; lending services of taxpayers who are not credit organizations; securities trading; capital transfer; derivative financial services, including interest-rate swap contracts, forward contracts, futures contracts, call or put options, foreign currency sales, and other derivative financial services as prescribed by law; debt sales; foreign currency trading.*

15. *Publication, import and distribution of newspapers, journals, specialized bulletins, political books, textbooks, teaching materials, law books, scientific-technical books, books printed in ethnic minority languages as well as propaganda postcards, pictures and posters, including those in the form of audio or visual tapes or discs or electronic data; money, money printing. ...*

17. *Machinery, equipment and supplies which cannot be manufactured at home and need to be imported for direct use in scientific research and technological development activities; machinery, equipment, spare parts, special-purpose means of transport and supplies which cannot be manufactured at home and need to be imported for prospecting, exploring and developing oil and gas fields; aircraft, drilling platforms and ships which cannot be manufactured at home and need to be imported for the formation of enterprises' fixed assets or which are hired from foreign parties for production and business activities, or for lease or for sublease. ...*

25. *Goods and services of business individuals who have annual revenue lower than 100 million Vietnam dong a monthly income lower than the common minimum salary level applicable to domestic organizations and enterprises.”*

2. Points a, b and d Clause 1 Article 7 amended and supplemented as follows:

“1. The taxable price is specified as follows:

a/ For goods and services sold by business establishments, the taxable price is the selling price exclusive of value-added tax. For excise tax-liable goods and services, the taxable price is the selling price inclusive of excise tax but exclusive of value-added tax; for environmental protection tax-liable goods, the taxable price is the selling price inclusive of environmental protection tax but exclusive of value-added tax; for excise tax and environmental protection tax-liable goods, the taxable price is the selling price inclusive of excise tax and environmental protection tax but exclusive of value-added tax.

b/ For imported goods, the taxable price is the border-gate import price plus (+) import tax (if any), excise tax (if any) and environmental protection tax (if any). The border-gate import price shall be determined under regulations on prices for calculating import tax;

d/ For asset lease, the taxable price is the rent exclusive of value-added tax;

In case of asset lease for which rents are paid periodically or in advance for a certain lease duration, the taxable price is the rent paid periodically or in advance, exclusive of value-added-tax;

~~In case of hiring foreign machinery, equipment or means of transport which cannot be manufactured at home for sublease, the taxable price excludes the rent payable to the foreign party;"~~

3. Clause 1 Article 8 amended and supplemented as follows:

"The tax rate of 0% applies to exported goods and services, international transportation and goods and services not liable to value-added tax specified in Article 5 of this Law upon exportation, except *following* cases:

- Transfer of technologies or intellectual property rights abroad;
 - Offshore reinsurance services;
 - Credit provision;
 - Capital transfer
 - Derivative financial services;
 - Post and telecommunications services;
- Exported products which are unprocessed mined resources and minerals specified in Clause 23, Article 5 of this Law.

Exported goods and services refer to goods and services consumed outside of Vietnamese territories, including the consumption within tariff-free zones, and a number of services that are provided to foreign customers as prescribed by the Government."

4. Clause 2 Article 10 amended and supplemented as follows:

2. The tax credit method applies to business establishments which fully observe regulations on accounting, invoices and documents as prescribed by the law on accounting, invoices and documents, ~~and register to pay tax according to the tax credit method;~~ *including:*

a) In-operation business establishments that have revenue from goods sale and service provision above the revenue threshold specified by the Government in each period, except business individuals that pay tax according to the method of calculation of tax based directly on added value specified in Point b Clause 2 Article 11 of this Law.

b) Business establishments that voluntarily register to apply the tax credit method as prescribed by the Government."

5. Article 11 amended and supplemented as follows:

"Article 11. Method of calculation of tax based directly on added value

1. The method of calculation of tax based directly on added value is specified as follows:

a/ The payable value-added tax amount according to the method of calculation of tax based directly on added value is the added value of sold goods or services multiplied by the value-added tax rate;

b/ The added value is *calculated based on the selling price of goods or services minus the purchase price of such goods or services. the percentage of added value over revenue as prescribed by the Government.*

2. The method of calculation of tax based directly on added value applies to the following cases:

a/ *Businesses and cooperatives that have annual revenue below the revenue threshold specified in Clause 2 Article 10 of this Law, except cases that voluntarily register to apply the tax credit method specified in Point b Clause 2 Article 10 of this Law;*

b/ *Business households and individuals;*

c/ *Business establishments and foreign business organizations and individuals without Vietnam-based resident establishments but having incomes generated in Vietnam that fail to fully observe regulations on accounting, invoices and documents, except cases that have to pay tax according to the tax credit method as prescribed by the Government.*

d/ *Economic organizations that are neither enterprises nor cooperatives, and fail to fully observe regulations on accounting, invoices, documents;*

đ/ *Gold, silver and gem trading activities.”*

6. Article 12 amended and supplemented as follows:

“Article 12. Input value-added tax credit

1. Business establishments which pay value-added tax according to the tax credit method are entitled to input value-added tax credit as follows:

a/ *Input value-added tax on goods or services used for the production or trading of goods or services subject to value-added tax may be wholly credited, including also the input value-added tax which are not compensated on damaged goods or services subject to value-added tax;*

b/ *For goods or services used for the production and trading of goods or services both subject and not subject to value-added tax, only the amount of input value-added tax on goods or services used for the production and trading of goods or services subject to value-added tax is creditable. The input value-added tax on fixed assets used for the production and trading of goods or services both subject and not subject to value-added tax may be wholly credited;*

c/ *The input value-added tax on goods or services sold to organizations or individuals that use humanitarian or non-refundable aid capital may be wholly credited;*

d/ *The input value-added tax arising in a month shall be declared and credited upon the determination of the payable tax amount of that month. In case a business establishment detects errors in the declared or credited input value-added tax amount, additional declaration and credit may be conducted; the maximum time limit for additional declaration and credit is 12 months from the time of detecting errors invoices, documents..*

2. Conditions on a business establishment to be entitled to input value-added tax credit are specified as follows:

a/ *Having an added-value invoice on goods or service purchase or a document proving the payment of value-added tax at the stage of importation;*

b/ *Having a ~~via-bank~~ non-cash payment document of purchased goods or services, except goods or services valued at under twenty million Vietnam dong upon each time of purchase;*

c/ For exported goods and services, apart from the conditions specified at Points a and b of this Clause, the business establishment must also have a contract signed with a foreign party on goods sale or processing or service provision, a goods or service sale invoice, a ~~via-bank~~ non-cash payment document and a customs declaration for exported goods. ...”

7. Article 13 amended and supplemented as follows:

“Article 13. Cases eligible for tax refund

1. Business establishments which pay value-added tax according to the tax credit method are entitled to value-added tax refund if, for three or more consecutive months **or for months in a quarter for cases that declare quarterly**, they have some input value-added tax amount not yet fully credited.

Business establishments having registered to pay value-added tax according to the tax credit method are entitled to tax refund if they have new investment projects and some amount of value-added tax on purchased goods or services used for investment not yet fully credited and the remaining tax amount of ~~two~~ five hundred million Vietnam dong or more.

2. Business establishments which export goods or services in a month or in a quarter are entitled to value added tax refund on a monthly or quarterly basis if they have a non-credited input value-added tax amount of ~~two~~ five hundred million Vietnam dong or more.

3. Business establishments which pay value-added tax according to the tax credit method are entitled to value-added tax refund if upon ownership transformation, enterprise transformation, merger, consolidation, separation, split, dissolution, bankruptcy or operation termination, they have an overpaid value-added tax amount or have some input value-added tax amount not yet fully credited.

4. Business establishments possessing value-added tax refund decisions issued by competent agencies as provided for by law, and cases eligible for value-added tax refund under treaties to which the Socialist Republic of Vietnam is a contracting party.

5. *Foreigners and abroad resident Vietnamese people who have passports or immigration documents issued by foreign authorities are entitled to value-added tax refund for goods which they purchase in Vietnam and bring back upon their leaving Vietnam.”*

Article 2

1. This Law takes effect on July 1, 2014.

2. The Government details and guides Articles and Clauses allocated in the Law; guides other necessary regulations of this Law in order to fulfill state management requirements.

This Law was passed on July ..., 2013, by the XIII National Assembly of the Socialist Republic of Vietnam at its sixth session.

**On behalf of the National Assembly
Chairman
Nguyen Sinh Hung**