



NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom – Happiness

No. 106/2016/QH13

LAW

AMENDING A NUMBER OF ARTICLES OF THE LAW ON VALUE ADDED TAX, LAW ON SPECIAL SALES TAX AND LAW ON TAX ADMINISTRATION

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly promulgates a Law amending a number of articles of the Law on Value Added Tax No. 13/2008/QH12 amended by a number of articles in the Law No. 31/2013/QH13, Law on Special Sales Tax No. 27/2008/QH12 as amended by a number of articles in the Law No. 70/2014/QH12 and Law on Tax Administration No. 78/2006/QH11 as amended by a number of articles in the Laws No. 21/2012/QH13 and No. 71/2014/QH13.

Article 1:

To amend a number of articles of the Law on Value Added Tax (“VAT”) No. 13/2008/QH12 as amended by a number of articles of the Law No. 31/2013/QH13:

1. Clauses 1, 9 and 23 of article 5 are amended as follows:

“1. Products of cultivation, husbandry, aquaculture and fisheries which have not yet been processed into other products or which have only been subject to conventional preliminary treatment which are produced or caught for sale by organizations and individuals and at the import stage;

Any enterprise/cooperative buying products of cultivation, husbandry, aquaculture and fisheries which have not yet been processed into other products or which have only been subject to conventional preliminary treatment for resale to other enterprises/cooperatives is not required to declare, assess and pay VAT and entitled to a credit of input VAT.”

“9. Medical health services and veterinary services including medical examination and treatment and disease prevention for humans and for animals; elderly/disabled people care services.”

“23. Exported products being natural resources which have not yet been processed into other products and exported products being goods processed from natural resources of which total value of natural resources and energy costs accounts for at least 51% of costs of the goods.”

2. Item g, clause 1, article 8 is amended as follows:

“g) Export products stipulate in clause 23, article 5 of this Law.

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Export goods/services mean goods/services consumed outside Vietnam, in non-tariff areas or goods/services provided to foreign customers in accordance with the regulations of the Government.”

3. Clauses 1 and 2 of article 13 are amended as follows:

“1. Any business establishment paying VAT under credit method and having input VAT which has not been fully credited in a month or a quarter shall be entitled to a credit in the following period.

Any business establishment which has registered to pay tax under credit method, which has a new investment project and is in the investment phase, and which has VAT on goods and services purchased for use for the investment which has not yet been fully credited and the remaining amount of tax is VND 300 million or more, shall be entitled to a VAT refund.

Business establishments having investment projects subject to the following cases shall not be entitled to VAT refund but the amount of tax on the investment project not being credited in accordance with the law on investment shall be carried forward to the following period:

a) Investment projects of business establishments which fail to contribute the amount of charter capital in full as registered; conduct business in lines of business/investment subject to conditions without satisfying all of the business conditions stipulated by the Law on Investment or without ensuring maintenance of all business conditions during the course of operation;

b) Investment projects in exploitation of natural resources licensed from 1 July 2016 or investment projects in production of products/goods of which total value of natural resources and energy costs accounts for at least 51% of costs of the goods.

The Government shall specify this clause.

2. A business establishment which has input VAT of VND300 million or more on exported goods and services in one month or a quarter which is not yet credited shall be entitled to VAT refund for such month or quarter, except for goods imported for export or export goods not being carried out in the locality of the managing customs office under the Customs Law. Tax refund prior to inspection shall apply to taxpayers involving in business or production of exported goods not violating laws on taxes and/or customs within 2 consecutive years or to taxpayers not subject to high tax risk entities as stipulated by the Law on Tax Administration.”

Article 2:

To amend a number of articles of the Law on Special Sales Tax/Excise Tax (“SST”) No. 27/2008/QH12 as amended by a number of articles of the Law No. 70/2014/QH13:

1. Clauses 1 and 2 of article 6 are amended as follows:

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“1. SST taxable price of goods imported or produced domestically means the selling price of import/manufacturing establishments.

Where goods subject to SST are sold to a trading establishment which has parent - subsidiary relationship or has the same parent as the import/manufacturing establishment or which has related party relationship with other trading establishments, then SST taxable price must not be lower than the average selling price of the trading establishments purchasing goods directly from import/manufacturing establishments by a percentage stipulated by the Government.

2. SST taxable price of goods imported at the import stage means the price used for calculating import duty plus import duty. In the case of imported goods subject to import duty reduction or exemption, SST taxable price excludes the amount of import duty reduced or exempted. For imported goods subject to SST, SST paid at the importation stage shall be creditable upon determination of SST payable at the selling stage.”

2. Clause 4, Section I of the SST Tariff as stipulated in Article 7 is amended as follows:

No.	Goods/services	Tax rates (%)
4	Passenger automobiles having 24 seats or less	
	a) Passenger automobiles having 9 seats or less, except for those stipulated in items 4.dd, 4.e and 4.g below	
	- With cylinder capacity of 1,500 cm ³ or less	
	+ From 1 July 2016 to the end of 31 December 2017	40
	+ From 1 January 2018	35
	- With cylinder capacity above 1,500-2,000cm ³	
	+ From 1 July 2016 to the end of 31 December 2017	45
	+ From 1 January 2018	40
	- With cylinder capacity above 2,000-2,500cm ³	50
	- With cylinder capacity above 2,500-3,000cm ³	
	+ From 1 July 2016 to the end of 31 December 2017	55
	+ From 1 January 2018	60

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	- With cylinder capacity above 3,000-4,000cm ³	90
	- With cylinder capacity above 4,000-5,000cm ³	110
	- With cylinder capacity above 5,000-6,000cm ³	130
	- With cylinder capacity above 6,000cm ³	150
	b) Passenger automobiles having 10-16 seats, except for those stipulated in items 4(dd), 4(e) and 4(g) of the SST Tariff stipulated in this article	15
	c) Passenger automobiles having 16-24 seats, except for those stipulated in items 4(dd), 4(e) and 4(g) in the SST Tariff stipulated in this article	10
	d) Automobiles transporting passengers and cargo, except for those stipulated in items 4(dd), 4(e) and 4(g) in the SST Tariff stipulated in this article	
	<i>With cylinder capacity ≤ 2,500cm³</i>	15
	<i>With cylinder capacity above 2,500-3,000cm³</i>	20
	<i>With cylinder capacity above 3,000cm³</i>	25
	dd) Automobiles run on petrol associated with electrical power and/or bioenergy in which petrol accounts for no more than 70% amount of energy consumed	70% of the rate applicable to automobiles of the same type as stipulated in items 4(a), 4(b), 4(c) and 4(d) of the SST Tariff in this article
	e) Automobiles run on bioenergy	50% of the rate applicable to automobiles of the same type as stipulated in items 4(a), 4(b), 4(c) and 4(d) of the SST Tariff in this article
	g) Automobiles run on electrical power	
	<i>Passenger automobiles having 9 seats or less</i>	15

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	<i>Passenger automobiles having 10-16 seats</i>	10
	<i>Passenger automobiles having 16-24 seats</i>	5
	<i>Automobiles transporting passengers and cargo</i>	10
	h) Motorhomes regardless of cylinder capacity	
	<i>As from 1 July 2016 to the end of 31 December 2017</i>	70
	<i>As from 1 January 2018</i>	75

Article 3:

To amend a number of articles of the Law on Tax Administration No. 78/2006/QH11 as amended by a number of articles of the Law No. 21/2012/QH13 and Law No. 71/2014/QH13:

1. Article 61 is amended as follows:

“Article 61: Tax exemption and/or reduction

Tax authorities shall offer tax holiday and/or reduction to cases subject to tax exemption and/or reduction as stipulated in legal documents on tax and to family households and individuals whose tax payables on use of non-agricultural land are VND50,000 or less.”

2. Clause 2 of article 92 is amended as follows:

“4. Tax compulsory enforcement shall not be carried out in the case where taxpayers are permitted by the tax management authority to pay the tax debts by instalments within a time-limit not exceeding 12 months from the starting date of tax compulsory enforcement time-duration. Instalment payment of tax debt shall be considered as per request of taxpayers with guarantee of a credit institution. Taxpayers must pay late payment interest at 0.03% per day on the overdue tax.”

3. Clause 1 of article 106 is amended as follows:

“1. Taxpayers that fails to pay tax by initial statutory due date, extension due date, the deadline specified in the notice of the tax management authority or the deadline specified in the decision on tax resolution by the tax management body must pay in full the tax liability plus late payment interest of 0.03% of the tax liability for each day late.

In the case of tax debts incurred prior to 1 July 2016 which have not yet been paid by taxpayers to the State treasury including the tax arrears as a result of inspection or audit by the tax competent authorities, the rate for calculating late payment interest as stipulated in this clause shall apply from 1 July 2016.

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Where taxpayers have not yet been paid from the State treasury for provision of goods/services from which the taxpayers fail to pay tax timely which results in tax debts, then such taxpayers shall not be required to pay late payment interest on the outstanding tax liability but not exceeding the amount unpaid from the State budget arising during the time in which the taxpayers have not been paid from the State treasury.”

4. Clause 3 of article 42 is repealed.

Article 4:

1. This Law shall have full force and effect as from 1 July 2016, except for clause 2 of this article.
2. Clause 4 of article 3 of this Law shall have full force and effect as from 1 September 2016.
3. The Government shall stipulate articles and clauses as assigned in this Law.

This Law was passed by Legislature XIII of the National Assembly of the Socialist Republic of Vietnam at its 11th Session on 6 April 2016.

CHAIRMAN OF THE NATIONAL ASSEMBLY

(signed and sealed)

Nguyen Thi Kim Ngan