

LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE VALUE ADDED TAX LAW

(No. 07/2003/QH11 of June 17, 2003)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the Xth National Assembly, the 10th session;

This Law amends and supplements a number of articles of the Value Added Tax Law of May 10, 1997,

Article 1.-

To amend and supplement a number of articles of the Value Added Tax Law as follows:

1. Article 4 is amended and supplemented as follows:

"Article 4.- Objects not liable to value added tax

The following goods and services shall not be liable to value added tax:

1. Agricultural and husbandry products as well as cultured and fished aquatic products, which have not yet been processed into other products or have been just preliminarily processed and sold by organizations and individuals;
2. Products being animals breeds and plant varieties;
3. Salt products;
4. Equipment, machinery, transport means used exclusively in technological chains, and construction supplies which cannot be produced at home and need to be imported for the formation of enterprises' fixed assets; equipment, machinery, supplies and transport means which cannot be produced at home and need to be imported for direct use in scientific research and technological development activities; aircraft, drilling platforms and ships hired from foreign countries used in production and trading, which cannot be produced at home; equipment, machinery, spare parts, special-use transport means and supplies, which cannot be produced at home and need to be imported for activities of prospecting and developing oil and gas fields;
5. State-owned dwelling houses sold by the State to current tenants;
6. Transfer of land use right;
7. Credit services, investment funds, securities-trading activities;
8. Life insurance, school pupil insurance, insurance on domestic animals and plants, and other kinds of insurance for non-business purposes;
9. Healthcare services;
10. Cultural, exhibition as well as physical training and sport activities for non-business purposes; art performances; film production; import, distribution and projection of motion pictures and video documentaries;
11. Educational and vocational training;
12. Radio and television programs financed by the State budget capital sources;
13. Publication, import and distribution of newspapers, journals, professional bulletins, political books, textbooks, teaching courses, law books, scientific-technical books, books printed in ethnic minority languages as well as propagation postcards, pictures and posters; money printing;
14. Public services in sanitation, water drainage in streets and population quarters; maintenance of zoos, flower gardens, parks, street greenery and public lighting; funeral services;
15. Renovation, repair and construction of cultural, art and public-utility works, infrastructure and "houses of gratitude" with capital contributed by people and humanitarian aid capital;
16. Mass transit by buses and trolleys;
17. Geological survey and exploration; surveying and mapping which are included in the State's basic surveys;
18. Irrigation and drainage in service of agricultural production; clean water exploited by organizations or individuals themselves in service of daily life in rural, mountainous, island, deep-lying and remote areas;
19. Special-use weapons and military equipment in service of national defense and security;
20. Goods imported in the following cases: humanitarian aid and non-refundable aid goods; gifts for State agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations and/or people's armed force units; presents and gifts for Vietnamese individuals according to the norms prescribed by the Government; belongings of foreign organizations and individuals under the diplomatic immunity norms; and personal effects in duty-free luggage norms.

Goods sold to international organizations and foreigners for use as humanitarian aid or non-refundable aid to Vietnam;

21. Goods transshipped or transited through the Vietnamese territory; goods temporarily imported for re-export and goods temporarily exported for re-import;

22. International transportation; goods and services directly supplied to international transportation, and re-insurance services to foreign countries;
23. Technological transfer; computer software;
24. Post, telecommunications and Internet services universalized under the Government's programs;
25. Gold imported in form of bars or ingots not yet processed into fine-art articles, jewelry or other products;
26. Export products being unprocessed exploited mineral resources, which shall be specified by the Government;
27. Products being artificial parts used for substitution of diseased people's organs; crutches, wheelchairs and other tools used exclusively for the disabled;
28. Goods and services of business individuals with low incomes prescribed by the Government.

Goods and services not liable to value added tax, prescribed in this Article, shall not be entitled to input value added tax deduction and reimbursement, except for cases entitled to the application of 0% tax rate as prescribed in Clause 1, Article 8 of this Law."

2. To add Clause 8 to Article 7 as follows:

"8. The prices for calculation of value added tax on goods and services liable to special consumption tax in the stage of domestic production and trading are the selling prices with special consumption tax but without value added tax; and in the import stage, they are the import prices at border gates plus import tax (if any) plus special consumption tax."

3. Article 8 is amended and supplemented as follows:

"Article 8.- Tax rates

The value added tax rates are prescribed as follows:

1. The tax rate of 0% shall apply to export goods and services, including goods and services not liable to export value added tax, except for cases of international transportation; goods and services directly supplied to international transportation; re-insurance services to foreign countries; credit services, financial investment and securities investment to foreign countries, and export products being unprocessed exploited mineral resources as prescribed by the Government.

2. The tax rate of 5% shall apply to the following goods and services:

a/ Clean water in service of production and daily life, except for cases prescribed in Clause 18, Article 4 of this Law;

b/ Fertilizers, ores for fertilizer production; insecticides as well as domestic animal and plant growth stimulants;

c/ Medical equipment and instruments; medical cotton and bandage; curative and preventive medicines; chemical-pharmaceutical products, and materia medica being raw materials for the production of curative and preventive medicines;

d/ Teaching and learning aids;

e/ Printing of assorted products prescribed in Clause 13, Article 4 of this Law, except for money printing;

f/ Children toys; assorted books, except for those prescribed in Clause 13, Article 4 of this Law; magnetic tapes, discs programmed or not;

g/ Unprocessed agricultural, husbandry, aquatic and marine products, except for those prescribed in Clause 1, Article 4 of this Law;

h/ Fresh foodstuff; unprocessed forestry products, except for timber, bamboo shoots and objects prescribed in Clause 1, Article 4 of this Law;

i/ Sugar; by-products in sugar production, including molasses, bagasse, sludge;

j/ Products made of jute, rush, bamboo, leaves;

k/ Cotton preliminarily processed from home-grown cotton;

l/ Feeds for cattle, poultry and other domestic animals;

m/ Scientific-technical services;

n/ Services in direct service of agricultural production;

o/ Pit-coal, soil, stone, sand, gravel;

p/ Base chemicals; mechanical products being production means; molds of various types; explosive materials; grinding stones, newsprint; insecticide sprayers; preliminarily processed rubber latex; preliminarily processed turpentine; artificial plywood; industrial concrete products, including concrete bridge girder, concrete house beams and frames, concrete piles, concrete electric poles, concrete round culvert pipe, concrete boxes of various types, non-standard prefabricated panels and reinforced concrete structures, merchandise concrete; tires and sets of tires and inner tubes of 900-20 size or larger; neutral glass tubes; nets, ropes and fibers for knitting fishing nets;

q/ Refined, rolled and pulled products of ferrous metals, non-ferrous metals and precious metals, except for import gold prescribed in Clause 25, Article 4 of this Law;

r/ Automatic data processors and parts and accessories thereof;

s/ Maintenance, repair and restoration of historical-cultural relics and museums, except for cases prescribed in Clause 15, Article 4 of this Law;

t/ Transportation, loading and unloading; dredging channels, canals, river ports and seaports; salvage and rescue activities;

u/ Distribution and projection of video films, except for the distribution and projection of video documentaries prescribed in Clause 10, Article 4 of this Law.

3. The tax rate of 10% shall apply to the following goods and services:

a/ Petroleum oil, gas, ores and other mineral products;

b/ Merchandise electricity;

c/ Electronic products, consumer mechanical products, electric items;

d/ Chemicals, cosmetics;

e/ Fibers, fabrics, garment and embroidered products;

f/ Paper and paper products, except for newsprint prescribed at Point p, Clause 2 of this Article;

g/ Milk, confectionery, beverage and other processed foodstuffs;

h/ Porcelain, china, glass, rubber and plastic products; timber and timber products; cement, bricks, tiles and other construction materials;

i/ Post, telecommunications and Internet services, except for those universalized under the Government's programs as prescribed in Clause 24, Article 4 of this Law;

j/ Lease of houses, warehouses, wharves, storing yards, workshops, machinery, equipment and transport means;

k/ Legal consultancy services;

l/ Photographing, printing and developing films; cassette tape recording, dubbing and renting; video shooting; reproducing;

m/ Hotel, tourism, food- and drink-catering;

n/ Goods and services liable to special consumption tax;

o/ Construction and installation;

p/ Gold, silver, gemstone, except for import gold prescribed in Clause 25, Article 4 of this Law;

q/ Ocean shipping agency;

r/ Brokerage services;

s/ Other goods and services not defined in Clauses 1 and 2 of this Article."

4. Clauses 1 and 2 of Article 10 are amended and supplemented as follows:

"1. Business establishments that pay value added tax by tax deduction method shall be entitled to the deduction of input value added tax (hereinafter called input tax) as follows:

a/ Input tax imposed on goods and services used for the production and trading of value added tax-liable goods and services shall be wholly deducted;

b/ Input tax imposed on goods and services concurrently used for the production and trading of goods and services liable to value added tax and those not liable to value added tax shall be only entitled to the deduction of the amount of input tax imposed on goods and services used for the production and trading of value added tax-liable goods and services;

c/ Any input tax incurred in a month shall be declared and deducted upon the determination of payable tax amount of such month; the maximum declaration duration shall be three months, counting from the time of declaration of tax of the month when the tax arise; for fixed assets, if the to be-deducted input tax amount is large, it shall be deducted gradually or tax shall be reimbursed according to the Government's regulations;

d/ Export goods and services entitled to input tax deduction must be certified by the customs offices as those having been actually exported, for export goods; must have contracts on selling goods, processing goods or supplying services to foreign parties; must have invoices of selling goods and/or services to foreign parties; must be paid via banks, except for cases of clearing between export goods/services and import goods/services, debt payment on behalf of the State and a number of special cases of payment.

The Government shall specify the procedures and conditions for payment of export goods and services entitled to input tax deduction;

e/ The input tax deduction in a number of special cases shall be prescribed by the Government.

2. The amount of value added tax inscribed on the added value invoices upon the purchase of goods and/or services or vouchers on payment of value added tax on import goods shall serve as bases for determining the input tax amount to be deducted; in cases where the goods and services purchased without the added value invoices or with added value invoices which are in contravention of law provisions, the business establishments shall not be entitled to tax deduction."

5. To add Clause 4 to Article 11 as follows:

"4. Business establishments that print, issue or use invoices in contravention of regulations in order to evade taxes, commit fraud in tax deduction or reimbursement shall, apart from having the tax amount retrospectively collected, also be administratively sanctioned or examined for penal liability according to law provisions."

6. Clause 1 of Article 14 is amended and supplemented as follows:

"1. Business establishments shall have to fully remit the value added tax into the State budget strictly according to regulations. The deadline for monthly tax payment shall be no later than the 25th day of the subsequent month."

7. To add Clause 5 to Article 14 as follows:

"5. The Government shall specify the procedures for tax declaration and payment, suitable to the requirements of administrative procedure

reform, raising sense of responsibility of business establishments before law and at the same time, enhancing the work of inspecting, examining and handling law violations by tax offices, ensuring the close and efficient collection of tax."

8. Clause 3 of Article 16 is amended and supplemented as follows:

"3. Decisions on tax reimbursement issued by competent agencies as prescribed by law and cases of tax reimbursement under the international treaties which the Socialist Republic of Vietnam has signed or acceded to."

9. Clause 2 of Article 17 is amended and supplemented as follows:

"2. To notify the payable tax amounts to business establishments as prescribed by the Government, urge the business establishments to pay tax on time; if, past the tax payment time limit, the business establishments fail to pay tax, to make notices on the payable tax amounts and fines for late payment according to the provisions of Clause 2, Article 19 of this Law; if business establishments still fail to fully pay the tax amounts and fines as stated in the notices, the handling measures prescribed in Clause 4, Article 19 of this Law shall apply to ensure the full collection of tax and fine amounts; if, after the above-said handling measures have been taken, the business establishments still fail to fully pay tax and fine amounts, the dossiers thereof shall be transferred to competent State agencies for handling according to law provisions;"

Article 2.-

This Law takes implementation effect as from January 1, 2004.

Article 3.-

The Government shall detail and guide the implementation of this Law.

This Law was adopted on June 17, 2003 by the XIth National Assembly of the Socialist Republic of Vietnam at its 3rd session.

Chairman of the National Assembly
NGUYEN VAN AN

**THE NATIONAL ASSEMBLY
CHAIRMAN**
(Đã ký)

Nguyen Van An