

Law No. 31/2013/QH13

Hanoi, June 19, 2013

LAW

ON AMENDMENTS TO THE LAW ON VALUE-ADDED TAX

Pursuant to the Constitution of Socialist Republic of Vietnam 1992, amended in the Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on amendments to the Law on Value-added tax No. 13/2008/QH12.

Article 1. Amendments to the Law on Value-added tax:

1. Clauses 4, 7, 8, 11, 15, 17, 23 and 25 of Article 5 are amended as follows:

“4. Salt products made of seawater, natural rock salt, refined salt, iodized salt of which the primary constituent is sodium chloride (NaCl).”

“7. Life insurance, health insurance, insurance for students, other insurances related to humans, insurance for animals, insurance for plants, other agricultural insurances; insurance for boats, ships, and other equipment necessary for fisheries; reinsurance.

8. The financial, banking, and securities services below:

a) Credit services include: loaning, discounting or rediscounting negotiable instruments and other valuable papers; guarantee; finance lease; domestic factoring; international factoring; other credit services according to law;

b) Loaning services provided by taxpayers that are not credit institutions;

c) Securities services include: securities brokerage; proprietary trading of securities; guaranteeing securities issuance; securities investment consultancy; securities depository; management of securities investment fund; management of securities investment portfolio; market organization services of Stock Exchanges or Securities trading centers; other securities services according to the laws on securities;

d) Capital transfers include: transferring part or the whole invested capital, including selling an enterprise to another enterprise; other forms of capital transfers according to law.

dd) Selling debts;

e) Trading in foreign currencies;

g) Derivative financial services include: swapping interest rates; forward contracts, futures contracts, foreign-exchange options; other derivative financial services according to law;

h) Selling collateral for loans taken by organizations of which 100% of charter capital is possessed by the State, which are established by the Government to settle bad debts of Vietnamese credit institutions.”

“11. Maintenance of zoos, parks, urban trees, public lighting; funeral services.”

“15. Publishing, importing, issuing newspapers, magazines, academic journals, political books, text books, law books, science – technology books, books in ethnic languages, printing propagating pictures and banners, including audio, video tapes, discs, or computer files; money, money printing.”

“17. Machinery, equipment, parts, and materials that cannot be produced at home and need to be imported to serve scientific research, technological development; machinery, equipment, parts, specialized vehicles, and materials that cannot be produced at home and need to be imported to serve petroleum exploration; airplanes, oil rigs, and ships that cannot be produced at home and must be imported to form fixed assets, or need to be hired from foreign partners to serve production, business, or to lease back.

“23. Production of exports that are resources and minerals that are not processed into other products.”

“25. Goods and services provided by business households and individuals that earn annual revenue of less than 100 million VND.

The business establishments that sell the goods and services that are not subject to VAT in this Article shall not deduct input VAT or receive input VAT refund, except for the cases to which the tax rate of 0% applies that are defined in Clause 1 Article 8 of this Law.”

2. Points a, b, and d Clause 1 of Article are amended as follows:

“a) Taxable prices of goods and services are VAT-exclusive prices; taxable prices of goods and services subject to special excise duty are the prices inclusive of subscriber information and exclusive of VAT; taxable prices of goods subject to environmental protection tax are prices inclusive of environmental protection tax and exclusive of VAT; taxable prices of goods subject to special excise duty and environmental protection tax are prices inclusive of special excise duty and environmental protection tax and exclusive of VAT;

b) Taxable prices of imported goods are prices at the border checkpoint plus import tax (if any) plus special excise duty (if any) plus environmental protection tax (if any). Import prices at the border checkpoint shall be determined in accordance with the regulations on taxable prices of imported goods;”

“d) Taxable prices of the lease of property are the rents exclusive of VAT.

If the rent is paid in instalments or paid in advance for a certain period of time, the taxable price is the instalment or the advanced payment exclusive of VAT;”

3. Clause 1 of Article 8 is amended; Point q is added to Clause 2 of Article 8 as follows:

“1. The tax rate of 0% is applicable to exported goods and services, international transport, goods and services that are not subject to VAT according to Article 5 of this Law when they are exported, except for the cases below:

- a) Transferring technologies, transferring intellectual property rights abroad;
- b) Reinsurance abroad;
- c) Credit services;
- d) Capital transfer;

- dd) Derivative financial services;
- e) Telecommunications and postal services;
- g) Exported products being resources or minerals that are not processed into other products according to Clause 23 Article 5 of this Law.

Exported goods and services being sold outside Vietnam, in non-tariff zones; goods and services provided for foreigners according to the Government's regulations."

"2. The tax rate of 5% is applicable to:

- q) Sale, lease, and hire purchase of social housing according to the Law on Housing."

4. Article 10 is amended as follows:

"Article 10. Tax deduction method

1. VAT shall be deducted as follows:

- a) The amount of VAT payable by deduction method is equal to the amount of output VAT minus the deductible input VAT;
- b) The amount of output VAT is equal to the total VAT on sold goods and services, which is written on the VAT invoice.

VAT on sold goods and services written on the VAT invoice is equal to the taxable prices of goods and services multiplied by the rate of VAT on such goods and services.

If the paid price written on the invoice is inclusive of VAT, the output VAT shall equal the paid price minus VAT defined in Point k Clause 1 Article 7 of this Law;

- c) The amount of deductible input VAT is equal to the total amount of VAT written on the VAT invoice, the VAT bill of imported goods, and must satisfy the conditions in Article 12 of this Law.

2. The deduction method is applicable to the business establishments that comply with the regime for accounting and invoicing according to the laws on accounting and invoicing, including:

- a) Business establishments that earn annual revenue of at least 1 billion VND from goods sale, except for business households and individuals;
- b) Business establishments that voluntarily employ the deduction method, except for business households and individuals.

3. The Government shall elaborate this Article."

5. Article 11 is amended as follows:

"Article 11. Method of direct calculation on value added

1. The amount of VAT payable according to direct calculation on value added equals the value added multiplied by the rate of VAT on the trade and crafting of gold, silver, and gems.

Value added of gold, silver and gems are equal to the sale prices of the gold, silver and gems minus the purchase prices of gold, silver and gems.

2. Application of VAT according to direct calculation on value added, which equals to the percentage multiplied by revenue:

a) Subjects of application:

- Enterprises and cooperatives of which the annual revenue is less than 1 billion VND, except for enterprises and cooperatives that voluntarily employ the deduction method according to Clause 2 Article 10 of this Law;
- Business households and individuals;
- The foreign organizations and individuals, which/who do not have permanent establishments in Vietnam but earn revenues in Vietnam, that do not comply with the accounting regime, except for foreign organizations and individuals that provide goods and services that serve petroleum exploration and extraction and have their tax deducted and paid by the Vietnamese party;
- Other economic organizations, except for the organizations that voluntarily employ the deduction method in Clause 2 Article 10 of this Law;

b) The percentage (%) for calculating VAT:

- Goods supply and distribution: 1%;
- Construction without materials: 5%;
- Production, transport, and services associated with goods, construction that includes materials: 3%;
- Other businesses: 2%.”

6. Article 12 is amended as follows:

“Article 12. Deduction of input VAT

1. Business establishments that employ the deduction method shall deduct the input VAT as follows:

- a) Input VAT on goods and services used for the production and sale of goods and services subject to VAT is completely deductible, including input VAT that is not compensated of damaged goods and services subject to VAT;
- b) For goods and services used for the production and sale of both taxable and non taxable goods and services, only input VAT on the goods and services used for the production and sale of taxable goods and services is deductible. Deductible input VAT must be separated from non-deductible VAT; if they are not separated, the deductible input VAT shall be calculated by the percentage of revenue from goods and services subject to VAT to the total revenue from sold goods and services;
- c) Input VAT on goods and services sold to organizations and individuals that use humanitarian aid or non-refundable aid is completely deductible;
- d) Input VAT on goods and services used for petroleum exploration and extraction is completely deductible;
- dd) Input VAT that arises in a month shall be declared and deducted when calculating the tax payable in that month. When business finds that the input VAT is declared or deducted incorrectly, it may be rectified before the tax authority issues a decision on tax inspection at the premises.

2. Required papers for input VAT deduction:

- a) Sale invoices or receipts of tax payment at the importation stage;
- b) There are receipts of non-cash payments for purchased goods and services, except for the purchases below 20 million VND;
- c) Required papers for exported goods and services apart from the papers in Point a and Point b of this Clause: a contract sign with a foreign partner to sell, process goods or provide services; sale invoices; receipts of non-cash payments; customs declarations of exported goods.

The payment for exported goods and services by offsetting the exported goods and services against the imported goods and services and repayment of debts on behalf of the State is considered non-cash payments.”

7. Article 13 is amended as follows:

“Article 13. Cases of tax refund

1. When the input VAT of a business establishment that uses the deduction method is not completely deducted in the month or in the quarter, it shall be deducted in the next period; if the input VAT is not completely deducted after at least 12 months or 4 quarters from the month or the quarter in which the undeducted VAT arises, the business establishment shall receive a tax refund.

When a business establishment that uses the deduction method has a new project of investment, the VAT on goods and services purchased during the investment is not deducted, and the remaining tax is 300 million VND or higher, the establishment shall receive a tax refund.

2. When the undeducted VAT on exported goods and services of a business establishment reaches 300 million VND in the month or the quarter, the establishment shall receive a VAT refund by the month or quarter.

3. The business establishment that uses the deduction method shall receive a refund of the surplus VAT or the VAT that is not completely deducted when the ownership is change, or when the enterprise is converted, merged, amalgamated, divided, dissolved, bankrupt, or shut down.

4. Foreigners and Vietnamese people residing abroad who have passports or entry papers issued by foreign competent authorities shall receive refunds of tax on goods purchased in Vietnam and brought abroad.

5. Refund of VAT for programs/projects using non-refundable ODA, non-refundable aid, or humanitarian aid:

a) The leader of the program/project or the main contractor, the organization appointed by the foreign sponsor to manage the program/project shall receive a refund of VAT on the goods and services purchased in Vietnam to serve the program/project;

b) The organizations in Vietnam that use non-refundable aid or humanitarian aid provided by foreign organizations and individuals to purchases goods and services to serve the program/project shall receive a refund of the tax on such goods and services.

6. A subject eligible for diplomatic immunity who purchases goods and services in Vietnam shall receive a refund of the VAT on the VAT invoice or the receipt that indicates the VAT-inclusive price.

7. The business establishments that receives the decisions on VAT refunds from competent authorities, and the cases of VAT refunds according to the International Agreements to which the Socialist Republic of Vietnam is a signatory.”

Article 2.

1. This Law takes effect on January 01, 2014, except from Clause 2 and Clause 3 of this Article.
2. The regulations on the tax rate of 5% on the sale, lease, and hire purchase of social housing in Clause 3 Article 1 of this Law takes effect on July 01, 2013.
3. The 10% VAT on the sale, lease, and hire purchase of commercial housing, which is finished apartments smaller than 70 m² that are sold at below 15 million VND/m², shall be reduced by 50% from July 01, 2013 until the end of June 30, 2014.
4. The Government shall elaborate and provide guidance on the implementation of this Law.

This Law is passed by the 13th National Assembly of Socialist Republic of Vietnam in the 5th session on June 19, 2013

PRESIDENT OF THE NATIONAL ASSEMBLY

Nguyen Sinh Hung