

LAW ON CORPORATE INCOME TAX

National Assembly of the
Socialist Republic of Vietnam
Legislature XII, 3rd Session
[May 2008]

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10;

The National Assembly hereby promulgates the *Law on Corporate Income Tax*.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates taxpayers, taxable income, tax exempt income, the basis for tax assessment, methods of tax assessment, and corporate income tax incentives.

Article 2 *Applicable entities:*

1. *Corporate income taxpayer* means any organization conducting activities of production [and/or] business in goods and services which earns taxable income as stipulated in this Law (hereinafter referred to as *an enterprise*), comprising:
 - (a) An enterprise established pursuant to the law of Vietnam.
 - (b) An enterprise established pursuant to foreign law (hereinafter referred to as a *foreign enterprise*) with or without a resident establishment in Vietnam.
 - (c) An enterprise established pursuant to the *Law on Co-Operatives*.
 - (d) A professional entity established pursuant to the law of Vietnam.
 - (dd) Any other organization conducting activities of production [and/or] business which earns income.

2. An enterprise which earns taxable income as stipulated in article 3 of this Law must pay corporate income tax as follows:
 - (a) An enterprise established pursuant to the law of Vietnam must pay tax on taxable income arising in Vietnam and on taxable income arising outside of Vietnam.
 - (b) A foreign enterprise with a resident establishment in Vietnam must pay tax on taxable income arising in Vietnam and on taxable income arising outside Vietnam and relating to the operation of such resident establishment.
 - (c) A foreign enterprise with a resident establishment in Vietnam must pay tax on taxable income arising in Vietnam and not relating to the operation of the resident establishment.
 - (d) A foreign enterprise which does not have a resident establishment in Vietnam must pay tax on taxable income arising in Vietnam.
3. *Resident establishment of a foreign enterprise* means a production [and/or] business establishment via which a foreign enterprise conducts part or all of its production [and/or] business activities in Vietnam which earn income, comprising:
 - (a) Branches, operational offices, plants, workshops, means of transportation, mines, petroleum and gas fields, and any other location in Vietnam where natural resources are mined.
 - (b) Construction sites; and construction, installation and assembly works.
 - (c) Establishments providing services, including consultancy services provided via people working for such establishment or via other organizations or individuals.
 - (d) Agents of foreign enterprises.
 - (dd) Representatives in Vietnam where they are representatives with authority to sign contracts in the name of the foreign enterprise, or where they are representatives without authority to sign contracts in the name of the foreign enterprise but regularly deliver goods or provide services in Vietnam.

Article 3 *Taxable income*

1. Taxable income comprises income earned from activities of production [and/or] business in goods and services and other income as stipulated in clause 2 of this article.
2. Other taxable income comprises income from capital transfers and from real property transfers; income from the ownership of or right to use assets; income from transfer, leasing out or liquidation of assets; income being interest on deposits, loans or sales of foreign currency; income being recoveries from contingency reserves; income earned from bad debts which were written-off and are now recoverable; income being debts payable to unidentifiable creditors; income from business omitted in previous years, and other income including income receivable from activities of production [and/or] business outside Vietnam.

Article 4 *Tax exempt income*

[The following income shall be tax exempt:]

1. Income earned from products of cultivation, husbandry and aquaculture by organizations established pursuant to the *Law on Co-Operatives*.
2. Income earned from performance of technical services directly serving agricultural production.
3. Income earned from performance of contracts for scientific research and technological development, from products during their period of test production, and from products made from new technology applied for the first time in Vietnam.
4. Income earned from activities of production [and/or] business in goods and services by enterprises specially reserved for employees being disabled people, reformed addicts and people infected with HIV. The Government shall provide regulations on the criteria and conditions for determining enterprises specially reserved for employees being disabled people, reformed addicts and people infected with HIV.
5. Income earned from occupational training activities specially reserved for ethnic minority people, disabled people, children living in particularly difficult conditions and reformed offenders.
6. Income distributed from activities being capital contribution, joint venture [and/or] association with a domestic enterprise after payment of corporate income tax in accordance with this Law.
7. Aid funds receivable for use in educational, scientific research, cultural, artistic, charitable, humanitarian and other social activities in Vietnam.

Article 5 *Tax assessment period*

1. The tax assessment period for corporate income tax shall be calculated in accordance with the western calendar year or the financial year, except for the case stipulated in clause 2 of this article.
2. The tax assessment period for corporate income tax shall be each occasion on which income arises applicable to foreign enterprises stipulated in sub-clauses (c) and (d) of article 2.2 of this Law.

CHAPTER II

Basis and Method of Tax Assessment

Article 6 *Basis for tax assessment*

The basis for tax assessment shall be assessable income and tax rates.

Article 7 *Determination of assessable income*

1. Assessable income within any one tax period shall be equal to taxable income less tax exempt income and losses carried forward from previous years.
2. Taxable income shall equal turnover less deductible expenses of activities of production [and/or] business, plus other income including income receivable from outside Vietnam.

3. Income from real property transfers must be separately determined in order to declare and pay tax.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 8 *Turnover*

Turnover means total sales revenue, processing fees and fees for provision of services including price subsidies and additional charges and fees to which the enterprise is entitled. Turnover shall be calculated in Vietnamese dong, and any turnover in foreign currency must be converted into Vietnamese dong at the average trading exchange rate on the inter-bank foreign currency market as published by the State Bank of Vietnam at the time when the turnover in foreign currency is generated.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 9 *Deductible expenses and non-deductible expenses when determining taxable income*

1. An enterprise shall be permitted to deduct all expenses, except for those stipulated in clause 2 of this article, if they satisfy both the following conditions:
 - (a) The expenses actually arose and relate to the activities of production [and/or] business of the enterprise.
 - (b) The expenses are accompanied by complete invoices and source vouchers as stipulated by law.
2. The following items shall be non-deductible expenses when determining taxable income:
 - (a) Expenses which fail to satisfy both the conditions stipulated in clause 1 of this article, except for that part of the value of a loss due to a natural disaster, epidemic or other event of force majeure for which compensation is not payable.
 - (b) Fines for administrative offences.
 - (c) Expenses covered by other funding sources.
 - (d) That part of business management expenses allocated by a foreign enterprise to its resident establishment in Vietnam which exceeds the level calculated by the allocation method stipulated by the law of Vietnam.
 - (dd) That part of expenses which exceeds the level stipulated by law for establishment of contingency reserves.
 - (e) That part of expenses for raw materials, supplies, fuel, power and goods which exceeds the wear and tear levels formulated by the enterprise and notified by it to the tax office and actual ex-warehouse prices.
 - (g) That part of interest payments on loans for production [and/or] business to an entity which is neither a credit institution nor an economic institution which exceeds one hundred and fifty (150) per cent of the basic interest rate as published by the State Bank of Vietnam at the time of the loan.
 - (h) Depreciation of fixed assets which is incorrect in terms of the law.

- (i) Amounts advanced for expenses which are incorrect in terms of the law.
 - (k) Salaries and wages of owners of private enterprises; remuneration paid to founding members of an enterprise who are not directly involved in executive management of production [and/or] business; and salaries and wages and items otherwise accounted for in order to be paid to employees but not actually expended or without the invoices and source vouchers required by law.
 - (l) Interest payments on loans corresponding to the unpaid portion of charter capital.
 - (m) Input value added tax which has been credited, value added tax paid in accordance with the tax credit method, and corporate income tax.
 - (n) That part of expenses for advertising, marketing, promotion and broker's commissions; of expenses for receptions, formal occasions and conferences; of expenses for assisting marketing, of expenses for assisting costs, and for discounting payments; and of expenses for complimentary newspapers by press agencies directly related to production [and/or] business which exceeds ten (10) per cent of the total amount of deductible expenses; [but] applicable to newly established enterprises, that part of [such] expenses which exceeds fifteen (15) per cent in the first three years as from the date of establishment. *Total amount of deductible expenses* shall not include the expenses stipulated in this paragraph; and in the case of commercial business activities, *total amount of deductible expenses* shall not include the purchase price of goods sold.
 - (o) Items of financial aid except financial aid for education, health care, to overcome the consequences of a natural disaster or to build a charitable home for poor people as stipulated by law.
3. Expenses in foreign currency which are deductible when determining taxable income must be converted into Vietnamese dong at the average trading exchange rate on the inter-bank foreign currency market as published by the State Bank of Vietnam at the time when such expenses in foreign currency arose.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 10 *Tax rates*

- 1. The rate of corporate income tax shall be twenty five (25) per cent, except for the cases stipulated in clause 2 of this article and in article 13 of this Law.
- 2. The rate of corporate income tax applicable to activities of prospecting, exploration and mining of petroleum and gas and other rare and precious natural resources shall be from thirty two (32) per cent to fifty (50) per cent, depending on each specific project and business establishment.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 11 *Method of assessing tax*

- 1. The amount of corporate income tax payable within any one tax period shall equal assessable income multiplied by the tax rate; where an enterprise has already paid income tax outside Vietnam, the amount of corporate income tax already paid shall be deducted but at a maximum not in excess of the amount of corporate income tax payable pursuant to this Law.

2. The method of assessing tax applicable to the enterprises stipulated in sub-clauses (c) and (d) of article 2.2 of this Law shall be implemented in accordance with regulations of the Government.

Article 12 *Tax payment*

An enterprise shall pay tax in the place where it has its main head office. If an enterprise has a dependently accounting production establishment which operates in a province or city under central authority other than that in which such enterprise has its main head office, then the amount of corporate income tax assessable and payable shall be determined in accordance with a ratio of expenses as between the place where the enterprise has the production establishment and the place where the enterprise has its main head office. Delegation of authority regarding, and management and use of sources of income receivable shall be implemented in accordance with provisions in the *Law on State Budget*.

The Government shall provide detailed regulations and guidelines for implementation of this article.

CHAPTER III

Corporate Income Tax Incentives

Article 13 *Incentives being preferential tax rates*

1. The tax rate of ten (10) per cent shall apply for fifteen (15) years to newly established enterprises from investment projects in areas with specially difficult socio-economic conditions, in economic zones and in high-tech zones; and to newly established enterprises from investment projects in the sectors of high technology, scientific research and technological development, investment in development of specially important infrastructure facilities of the State, and production of software products.
2. The tax rate of ten (10) per cent shall apply to enterprises operating in the sectors of education and training, occupational training, health care, culture, sport and the environment.
3. The tax rate of twenty (20) per cent shall apply for ten (10) years to newly established enterprises from investment projects in areas with difficult socio-economic conditions.
4. The tax rate of twenty (20) per cent shall apply to agricultural service co-operatives and to people's credit funds.
5. The duration of preferential tax rates may be extended in the case of large scale and high-tech projects which particularly need to attract investment, but the duration of extension shall not exceed the duration stipulated in clause 1 of this article.
6. The duration of the preferential tax rates stipulated in this article shall be calculated from the first year in which the enterprise has turnover.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 14 *Incentives being duration of tax exemption and reduction*

1. The following enterprises shall be exempted from corporate income tax for a maximum period of four (4) years and shall be entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for a maximum period of nine (9) subsequent years: Newly established enterprises from investment projects in areas with specially difficult socio-economic conditions, in economic zones and

in high-tech zones; newly established enterprises from investment projects in the sectors of high-tech, scientific research and technological development, investment in development of specially important infrastructure facilities of the State, and production of software products; and newly established enterprises operating in the sectors of education and training, occupational training, health care, culture, sport and the environment.

2. The following enterprises shall be exempted from corporate income tax for a maximum period of two (2) years and shall be entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for a maximum period of four (4) subsequent years: Newly established enterprises from investment projects in areas with difficult socio-economic conditions.
3. The duration of tax exemption and reduction stipulated in this article shall be calculated from the first year in which the enterprise has taxable income; if an enterprise does not have taxable income in the first three years as from the first year in which it has turnover, then the duration of tax exemption and reduction shall be calculated from the fourth year.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 15 *Other cases of tax reduction*

1. Enterprises engaged in production, construction or transportation which employ many female employees shall be entitled to a reduction of corporate income tax equal to the additional amount of expenses incurred for female employees.
2. Enterprises employing many ethnic minority people shall be entitled to a reduction of corporate income tax equal to the additional amount of expenses incurred for employees being ethnic minority people.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 16 *Carrying forward losses*

1. Enterprises which suffer a loss shall be entitled to carry forward the loss to the following year and such loss shall be deductible from assessable income. Losses may be carried forward for a maximum period of five years as from the year following the year in which the loss arose.
2. Enterprises which suffer a loss from activities being real property transfers shall only be entitled to carry forward the loss to assessable income from such activities.

Article 17 *Establishment of Science and Technology Development Fund of an enterprise*

1. Enterprises established and operating pursuant to the law of Vietnam shall be entitled to deduct a maximum of ten (10) per cent of their annual assessable income in order to establish the Science and Technology Development Fund of the enterprise.
2. If a Science and Technology Development Fund, within a period of five (5) years from the date of its establishment, does not entirely use up seventy (70) per cent of its funds or uses funds for an incorrect purpose, then the enterprise must pay into the State Budget part of its corporate income tax calculated on the income which was taken to establish the Fund and which was not entirely used up or which was used for the incorrect purpose plus interest arising on such amount of corporate income tax.

The corporate income tax rate used to assess the amount of tax recoverable shall be the tax rate which applied to the enterprise in the period when it established its Science and Technology Development Fund.

The interest rate for calculating the amount of tax recoverable on the part of the funds not entirely used up shall be the interest rate on State treasury bonds with a term of one year applicable at the time of recovery and the period for calculating interest [payable] shall be two years.

The interest rate for calculating the amount of tax recoverable on funds used for an incorrect purpose shall be the interest rate for late payment stipulated in the *Law on Tax Management* and the period for calculating interest [payable] shall be the period from the date when the Fund was established until the date when tax is recovered.

3. Enterprises shall not be permitted to account for expenses of the Science and Technology Development Fund in their deductible expenses when determining taxable income in any one tax period.
4. Funds of a Science and Technology Development Fund shall only be permitted to be used for investment in science and technology in Vietnam.

Article 18 *Conditions for applicability of tax incentives*

1. The corporate income tax incentives prescribed in articles 13 to 17 inclusive of this Law shall only apply to enterprises which comply with the cost accounting regime, maintain invoices and source vouchers, and pay tax in accordance with declarations.
2. Enterprises must account separately for income from activities of production [and/or] business entitled to the tax incentive rates prescribed in articles 13 and 14 of this Law, from income from activities of production [and/or] business not entitled to tax incentive rates, failing which it shall be determined as a ratio of turnover from activities entitled to tax incentive rates over total turnover of the enterprise.
3. The corporate income tax incentives prescribed in articles 13 and 14 of this Law shall not apply to:
 - (a) The income stipulated in article 3.2 of this Law.
 - (b) Income from activities of prospecting, exploration and mining of petroleum and gas and other rare and precious natural resources.
 - (c) Income from business in games with prizes and in gambling.
 - (d) Other cases as stipulated by the Government.

CHAPTER IV

Implementing Provisions

Article 19 *Effectiveness*

1. This Law shall be of full force and effect as from 1 January 2009.
2. This Law shall replace *Law on Corporate Income Tax 09-2003-QH11*.

3. Enterprises currently entitled to corporate income tax incentives pursuant to the *Law on Corporate Income Tax 09-2003-QH11* shall continue to be entitled to such incentives for the residual term in accordance with *Law 09-2003-QH11*; if the level of incentives including preferential tax rates and duration of tax exemption and reduction is less than the level of incentives pursuant to this Law, then the tax incentives stipulated in this Law shall apply for the residual term.
4. In the case of enterprises in the category of entitlement to tax exemption and reduction pursuant to *Law 09-2003-QH11* which do not yet have taxable income, the time of commencement of entitlement to tax exemption and reduction shall be calculated pursuant to this Law and as from the date on which this Law takes effect.

Article 20 *Implementing guidelines*

The Government shall provide detailed regulations and guidelines for implementation of articles 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 18 of this Law and of other necessary items as required for management purposes.

This Law was passed by Legislature XII of the National Assembly of the Socialist Republic of Vietnam at its 3rd Session on 3 June 2008.

Chairman of the National Assembly
NGUYEN PHU TRONG