

NATIONAL ASSEMBLY

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SOCIALIST REPUBLIC OF VIETNAM

Independence - Liberty – Happiness

NATIONAL ASSEMBLY

OF

THE SOCIALIST REPUBLIC OF VIETNAM

XI Legislation, 7th Session

LAW ON EXPORT AND IMPORT DUTIES

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

This law prescribes export and import duties.

Chapter I

GENERAL PROVISIONS

Article 1. *Governing Scope*

This Law prescribe export and import duties of goods permitted to be exported and imported accross border gates of Vietnam; goods exchanged and traded by residents in border areas and other exchanged goods are considered as exports and imports.

Article 2. *Dutiable subjects*

5. *Moving property* are belongings, equipments for the purposes of living activities or work withdrawn by individuals, families and organizations when they stop their residency, activities in Vietnam or abroad.

6. *Goods traded, exchanged by residents in border areas* are goods used for production and daily living activities of residents in border areas.

Article 6. Application of international treaties

In case international treaties of which the Socialist Republic of Vietnam is a member stipulate regulations on export and import duties different with regulations of this Law, the regulations of the international treaties are applicable.

Article 7. Duties on goods traded and exchanged by residents in border areas

Based on regulations of this Law, the Government set export and import duties on goods traded and exchanged by residents in border areas reasonable for each period.

Chapter II

DUTY CALCULATION BASE AND TARIFF SCHEDULE

Article 8. Duty calculation base, method and currency paying duties

1. Base for calculating export or import duties payable are unit quantity of each goods actually imported, exported indicated in customs declaration, dutiable price and tariff rate at percentage; as for the goods subject to specific tariff, base for calculating duty payable shall be the quantity of goods in customs declaration and the duty level imposed on one unit of goods.

2. Duty calculation method:

a. The amount of duty payable shall be equal to unit quantity of goods, which actually exported or imported as indicated in the custom declaration, multiplied by dutiable price and tariff rate applied to each item of goods as prescribed in the tariff schedule at the time of calculation.

b. As for the goods subject to specific duties, the amount of duty payable is equal to quantity of goods multiplied with the specific duty level imposed on one unit of goods at the time of calculation.

3. Currency paying duties is Vietnamese Dong; in case foreign currency is permitted to pay duties, foreign currency used must be converted easily.

Article 9. Dutiable price and exchange rate

1. For exports, dutiable price shall be the actual selling price paid by the buyer at the border gate as indicated in the contract;

2. For imports, dutiable price shall be the actual settlement price the buyer has to pay up to the first port of entry as indicated in the contract.

3. The exchange rates between Vietnamese Dong and foreign currencies used to determine dutiable price shall be the exchange rate published by the State Bank of Vietnam at the time of calculation.

The Government shall stipulate provisions on dutiable price as prescribed in this Article.

Article 10. Duty rate

1. For exports, export duty rate for each goods is prescribed in the export tariff schedule.

2. Import duty rates include preferential duty rate, special preferential duty rate and ordinary duty rate, as follows:

a. The preferential duty rates shall apply to goods imported from countries, which have agreements on most favored nation treatment in their trade relations with Vietnam.

b. The special preferential duty rate

4. Anti-discrimination duty on imported goods into Vietnam originated from countries, group of countries and territories where there is duty discrimination or other discriminatory measures as per regulations on MFN and national treatment in international trade.

Article 12. Authority to issue tariff schedules and rates

1. The Government submit to National Assembly Standing Committee for enactment of export duty schedule by dutiable item groups and tariff rate brackets on each item group; preferential import duty schedule as per list of dutiable groups of items and preferential duty bands on each group of items; regulations on safeguard duty, anti-dumping duty, anti-subsidy duty and anti-discrimination duty.

The Prime Minister shall decide items subject to specific duty and specific duty rates as necessary.

2. Based on Export duty schedule by list of dutiable items and duty rate bands on each group of items, preferential import duty schedule as per list of dutiable groups of items and preferential duty brackets on each group of items issued by National Assembly Standing Committee, Minister of Finance stipulates export and import duty rate on each item of goods as per Government procedures, ensuring the following principles:

- a) Compatible with list of dutiable items and within the duty rate brackets as enacted by National Assembly Standing Committee;
- b) To contribute to ensuring budget revenues and market stabilization;;
- c) To protect domestic market on a selective conditional and time-limited basis and in line with international treaty to which SR Vietnam is a member.

Chapter III

DUTY DECLARATION AND PAYMENT

Article 15. Deadline to pay duty

1. The time limit for export or import duty payment is prescribed as follows:

a) For exports, time-limit for duty payment shall be 30 days from the date the duty payers lodge their customs declaration

b) For imported consumer goods, duty payers must pay taxes before receiving their goods; In cases where the payable tax amounts are guaranteed the tax payment time limit shall be guarantee period, but not exceeding 30 days since the duty payers lodge registration of custom declaration. Responsibilities of guarantor are prescribed by item 2 section 2 of this Article;

c) For good which are materials and raw materials imported for the production of the export goods, the tax payment time limit shall be 275 days from the date the duty payers register custom declaration. For exceptional cases, the tax payment time limit may be extended beyond 275 days to suit the enterprise's production cycles and the need to reserve materials and raw materials under the Government's stipulations;

d) For goods which are temporarily exported for re-import or temporarily imported for re-exported, the time limit shall be 15 days from the end of the period permitted by the competent agencies for the goods to be temporarily exported for re-import or temporarily imported for re-export;

e) In addition to case stipulated at items c and d, section 1 of this Article, time limit for paying duty on imports shall be 30 days since the duty payers register for custom declaration.

2. Duty payers satisfying either one of the following condition are eligible for time limit prescribed at item c,d and e, section 1 of this Article:

a) Duty payers having been engaged in export or import activities for at least 365 days as to the date when registration for custom declaration is verified by custom authority not to have trade fraud, tax evasion, tax arrears, penalty arrears, and to observe fina

The exemption from export and import duties on the exported and imported goods shall be considered and assessed in the following cases:

1. Goods imported in exclusive service of national defense, security, education and training; Goods imported in exclusive service of scientific research, except for prescribing in the Clause 8 of Article 16 of this Law;

2. Goods are gifts, donations or sa

use in their investment projects, constructions, installations, productions or others already paid import duty.

2. In case the duty payers or the customs authorities made an error in declaring or calculating duties, over-payment of duty within 365 days from the date of discovery such error shall be refunded.

Article 20. Responsibilities and time limit for making duty refund

1. Within 15 days after receipts of full documents for request of duty refund, the competent authorities shall be responsible to refund the duty for duty payers; In case deficiency in documents or unconformity documents with stipulations of law, within 05 working days after receipts of refundable documents, the State competent authorities must ask in written the duty payers for completing the refundable documents.

2. If the payment deadline stipulated in the Clause 1 of this Article is not meet, the State competent authorities shall be responsible to pay the duty payers who are eligible for duty refund b stipue docum respo081 ities period at the rate paydocumLn commercial bank deposits at the time the refund is made.

Article 21. Duty Demo081

The duty payer who has goods to be exempted or considered duty exemption in accordance with the provisions of the Artical 16po08117 of this Law, but after that used for other purposes to be exempted or considered duty exemption, shall be re-collected in full.

The Government shall stipulate the cases of duty demo08, the basic of duty demand and time limitation of paying on duty demand pesbed in this Artical.

CHAPTER V COMPLAINS AND HANDLING OF VI

Article 22: Complaints and handling of complaints.

Where a duty payer do not agree with the decision of customs authorities on the amount of duty payable, amount of fine and penalty method, he or she shall have to make full payment of the duty, comply with penalty method and at the same time have the right to lodge a claim for review in accordance with the provisions of the existing laws and regulation on complaints and denunciations;

Article 23: Handling of custom duty-related violations committed by tax payers:

Duty payers violating the provisions of this Law shall be handled as follows:

1. If delaying the payment of duty and/or fines as compared with the prescribed payment date or the deadline stated in the duty handling decisions, the duty payer shall, apart from paying fully the tax and/or fines amount, have to pay an amount equal to 0.1% of the delayed payment amount for each day of delayed payment; if delaying the payment over 90 days, the duties shall be judicially collected as provided in the Paragraph 4 of this Article.

2. If failing to comply with the provisions on declaration and registration for duty payment as prescribed by this Law, the duty payer shall, depending on the nature and seriousness of their violations, be subject to administrative sanctions against duty-related violations;

3. If falsely declaring or evading duty, the duty payer shall, apart from having to fully pay the duty amount according to the provision of this Law, be imposed a fine being one to five times the fraud tax amount, depending on the nature and seriousness of their violation;

4. Failing to pay duty and/or fine under duty-handling decision, the duty payers shall be judicially handled as follows:

a. Deductions from the deposits of the taxpayers at banks, other credit institutions or treasuries to pay tax and/or fines. The concerned banks, other credit institutions or treasuries shall have to make deductions from deposit account of the duty payers to pay tax and/or fine in to the State budget under duty handling decision of customs authorities or other State competent authorities before collecting debt.

b. Customs authorities are entitled to seize goods and/or material evidences to ensure the full collection of tax and/or fines. After 30 days from the date the customs authority issued the decision on seizure of goods and/or materials, the duty payer still not pay the obligatory duty, the customs authorities shall be eligible to sell off the goods to ensure the full collection of duty and/or fine arrears.

d. The customs agencies must not fill the export or import procedures for the duty payers' subsequent shipment until such duty payers pay the full duty amounts and/or fines.

5. If detecting and concluding that there is tax fraud or evasion, the customs authorities shall have to collect all duty and fine arrears that occurred within five years back from the date of inspection and detection of the duty fraud or evasion; in cases where duty payers make declaration mistakes, the tax agencies shall have to collect tax arrears or refund such wrongly- calculated tax amounts that occurred within 360 days back from the date of inspection and detection of such mistakes. In cases where duty payer discover declaration mistakes by themselves and actively pay the short-payment to the State budget within 60 days back from the date of decleration, the duty payer shall be exempted from being penalized.

6. Evading large duty amounts or despite having been administratively sanctioned for a duty- related violation but still re-commit such violation, the duty payers shall be be prosecuted for criminal offence according to the provision of law.

Article 24: Handling violation committed by customs officials and other individuals

1. Customs officer or individual who take advantage of his or her position and powers to illegally seize or appropriate duty paid on dutiable exports or imports shall have to repay to the State budget the whole misappropriated or embezzled amount and shall, depending on the nature and seriousness of their violation, be subject to administrative punishment or be prosecuted for criminal offence according to the provision of law

2. Customs officials or individuals who are irresponsible, or deliberately breach the provisions of this Law or commit other acts in violation the

provisions of this Law or protect violators shall, depending on the nature and seriousness of their violation, be disciplined or prosecuted for criminal offence according to the provision of law; if customs official cause damages, they responsible to pay compensation according to the provision of law

CHAPTER VI

ORGANIZATION OF IMPLEMENTATION

Article 25: The rights and responsibilities of the Government

The Government shall exercise unified management of the collection of export and import duty, provide for the right and procedure of duty exemption, consider duty exemption, consider duty reduction , make duty refund , make duty re-collection and handle duty-related violations as prescribed in the Article 16, 17, 18, 19, 20, 21 and 23 of this Law.

Article 26: Responsibilities of the Minister of Finance, Chairman of People's Committee of central provinces and cities

1. The Ministry of Finance shall be responsible for

preferences with preferential levels that are higher than preferential levels provided in this law shall continue enjoying the tax preferences provided for in their investment licenses or certificates of investment preferences. In cases where their investments licenses or certificates of investment preferences provide for preferential level lower than the tax preferential levels provided for in this Law, they shall be eligible to enjoy the preferential levels as provided for in this Law for the remaining preferential durations.

Article 25: Implementation guideline

The Government shall guide the implementation of this Law.

This Law is passed by the Legislature XI of the National Assembly of the Socialist Republic of Vietnam at its 7th session on June 14, 2005.

CHAIRMAN OF THE NATIONAL ASSEMBLY

Nguyen Van An