

**DECREE No. 149/2003/ND-CP OF DECEMBER 4, 2003 Detailing the
implementation of The special consumption tax law and The law
amending and supplementing a number of articles of The special
consumption tax law**

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

*Pursuant to May 20, 1998 [Special Consumption Tax Law](#) No. 05/1998/QH10
and June 17, 2003 Law No. 08/2003/QH11 Amending and Supplementing a
Number of Articles of the Special Consumption Tax Law;*

At the proposal of the Minister of Finance,

DECREES:

Chapter I

**OBJECTS AND SCOPE OF APPLICATION OF THE SPECIAL
CONSUMPTION TAX**

Article 1.- Subject to the special consumption tax are the following goods and services, except for cases prescribed in Article 3 of this Decree:

1. Goods:

a/ Cigarettes, cigars;

b/ Liquors;

c/ Beer;

d/ Under-24 seat cars;

e/ Gasoline of various kinds, naphtha, reformed components and other components for mixing gasoline;

f/ Air conditioners of a capacity of 90,000 BTU or under;

g/ Playing cards;

h/ Votive gilt paper, votive objects.

2. Services:

a/ Dancing halls, massage parlors, karaoke bars;

b/ Casino, jackpot games;

c/ Entertainment with bet tickets;

d/ Golf business: sale of golf club membership cards, golf playing tickets;

e/ Lottery business.

Article 2.- Special consumption tax payers include organizations and individuals (referred collectively to as establishments) that produce and/or import goods and/or provide services, which are subject to the special consumption tax as prescribed in Article 1 of this Decree.

Establishments producing goods subject to the special consumption tax shall have to pay special consumption tax thereon at the production stage.

Establishments importing goods subject to the special consumption tax shall have to pay special consumption tax thereon at the importation stage.

Establishments providing services subject to the special consumption tax shall have to pay special consumption tax on the services subject to the special consumption tax.

Article 3.- Goods defined in Clause 1, Article 1 of this Decree shall not be subject to the special consumption tax in the following cases:

1. Goods which are directly exported, sold or consigned to export business establishments for export by production and/or processing establishments.

In cases where the export business establishments purchase goods subject to the special consumption tax from production establishments for export but do not export the goods and consume them in the country, such export business establishments must declare and pay the special consumption tax.

2. Goods which are imported in the following cases:

a/ Import goods are:

- Humanitarian aid or non-refundable aid goods;
- Foreign organizations' and individuals' gifts for State agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations and people's armed force units. Such gifts shall be presented within the limits prescribed by the Government;
- Belongings of foreign organizations and/or individuals that enjoy the diplomatic immunities prescribed by the Vietnamese Government in accordance with the international treaties which Vietnam has signed or acceded to;
- Personal effects within the import tax-free luggage limits;

b/ Goods which are transshipped, transited or transported through Vietnamese territory in the following forms:

- Goods transported directly from the exporting countries' ports to the importing countries' ports without arriving at Vietnamese ports;

- Goods transported to Vietnamese ports then directly to the importing countries' ports without going through the procedures for import into Vietnam;

- Goods deposited in bonded warehouses then transported to other countries without carrying out the procedures for import into Vietnam under the Regulation on Bonded Warehouses;

- Goods transited and/or transported through Vietnam's border gates and/or borders on the basis of the agreements signed between the two governments or between branches or localities, as permitted by the Prime Minister;

c/ Goods temporarily imported for re-export and goods temporarily exported for re-import during the grace period, as prescribed by the Law on Import Tax and Export Tax;

d/ Goods imported for duty-free sale to Vietnam-based foreign agencies and foreigners that enjoy the diplomatic immunities and are exempt from import tax under the prescribed regimes;

Goods imported for duty-free sale at duty-free shops at international airports, seaports and railway stations or border gates.

Establishments, which import goods items not subject to the special consumption tax under the provisions in Clause 2 of this Article, and use them for other purposes, shall have to make special consumption tax declaration and payment within 3 days after such goods are delivered for use for other purposes.

Chapter II

TAX CALCULATION BASES AND TAX RATES

Article 4.- The bases for special consumption tax calculation are the tax calculation prices of taxable goods or services and tax rates.

Article 5.- Special consumption tax calculation prices are specified as follows:

1. For home-made goods, they shall be the sale prices set by the production establishments, not yet covering the special consumption tax and value added tax.

The prices for calculating the special consumption tax on home-made liquors and beers are prescribed as follows:

a/ For bottled liquors and beers which are sold by the domestic production establishments at the prices which already include the value of empty bottles, the sale prices serving as bases for determining the special consumption tax calculation prices shall exclude the value of the empty bottles at the actual prices, not yet covering the special consumption tax and value added tax.

b/ For canned beers which are sold by the domestic production establishments at the prices which already cover the value of empty cans, the sale prices serving as bases for determining the special consumption tax calculation prices shall exclude the value of the empty cans at the price set for one liter of beer. The Ministry of Finance shall be assigned to specify the prices of empty cans to be excluded suitable to each period.

2. For import goods, they shall be the import tax calculation prices plus the import tax. In cases where import goods are eligible for import tax exemption or reduction, the tax calculation prices shall not include the exempted/reduced import tax amounts.

3. For processed goods, they shall be the sale prices, not yet including special consumption tax and value added tax, set by the processee-establishments.

4. For goods sold by mode of payment in installments, they shall be the special consumption tax calculation prices of such goods sold by mode of lump-sum payment (excluding installment payment interests).

In cases where production/business establishments sell goods via their branches, shops, dependent establishments or commission-enjoying sale agents, the special consumption tax calculation prices shall be based on the actual sale prices set by such shops, branches, dependent establishments or commission-enjoying sale agents.

5. For services, they shall be the service provision prices, not yet covering the special consumption tax and value added tax.

The service provision prices serving as bases for determination of sans-special consumption tax prices of a number of services are specified as follows:

- For golf business, they shall be the sale prices of membership cards and golf playing tickets.

- For casino, jackpot games and entertainment with bet tickets, they shall be the turnovers from these activities minus the prize money already paid to players.

6. For goods and/or services used for exchange, internal consumption, gift or donation, sale promotion, they shall be the special consumption tax calculation prices of goods and services of the same or equivalent types at the time such activities are conducted.

The special consumption tax calculation prices of goods and/or services prescribed in this Article shall also include the surcharges apart from the sale prices of goods and services enjoyed by the business establishments.

In cases where the tax payers have turnovers in foreign currencies, they must convert such foreign currency amounts into Vietnam dong at the exchange

rates announced by Vietnam State Bank at the time such turnovers are generated to determine the tax calculation prices.

The Ministry of Finance shall guide in detail the determination of sans-special consumption tax prices serving as bases for calculating tax on taxable goods and services prescribed in this Article.

Article 6.- The special consumption tax rates for goods and services are prescribed in the following special consumption tax rate table:

SPECIAL CONSUMPTION TAX TARIFF

Ordinal number	Goods and services	Tax rate (%)
I	Goods	
1	Cigarettes, cigars	
	a/ Filter cigarettes produced mainly from imported raw materials, cigars	65
	b/ Filter cigarettes produced mainly from home-made raw materials	45
	c/ Non-filter cigarettes	25
2	Liquors	
	a/ Of 40% proof or higher	75
	b/ Of between 20% and under 40% proof	30
	c/ Of under 20% proof, fruitwines	20
	d/ Medicated liquors	15
3	Beer	
	a/ Bottled beer, canned beer, fresh beer	75
	b/ Draught beer	30
4	Cars	
	a/ Cars of 5 seats or under	80
	b/ Cars of between 6 and 15 seats	50
	c/ Cars of between 16 and under 24 seats	25
5	Gasoline of various kinds, naphtha, reformade components and other components for mixing gasoline	10
6	Air conditioners of a capacity of 90,000 BTU or under	15

7	Playing cards	40
8	Votive gilt paper, votive objects	70
II	Services	
1	Dancing halls, massage parlors, karaoke bars	30
2	Casinos, jackpot games	25
3	Entertainment with bet tickets	25
4	Golf business; sale of membership cards, golf playing tickets	10
5	Lottery business	15

The application of the special consumption tax rates to a number of goods and services is specified as follows:

1. For goods subject to the special consumption tax, the special consumption tax rates shall apply regardless of whether they are import goods or home-made goods.
2. Filter cigarettes produced mainly from imported raw materials are those produced with the imported shred tobacco raw materials accounting for 51% or more of the total volume of shred tobacco raw materials used therefor.
3. For medicated liquors, the tax rates shall apply irrespective of their alcoholic strength. Medicated liquor production establishments must obtain medicated liquor production permits and certificates of registration of the names, trademarks, labels and quality of their medicated liquor products, issued by medical agencies or competent agencies. Import medicated liquors must be certified by medical agencies or competent agencies. If failing to obtain all the above-said papers, the production/business establishments must pay the special consumption tax at the rates set for liquors of the same alcoholic strength.
4. Votive objects subject to the special consumption tax shall not include those being children toys and those used for decoration.
5. For the special consumption tax-liable goods items under heading “gasoline of various kinds, naphtha, reformade components and other components for mixing gasoline”, the Ministry of Finance shall coordinate with relevant agencies in providing specific regulations thereon.

Chapter III

TAX REGISTRATION, DECLARATION, PAYMENT AND SETTLEMENT

Article 7.- Establishments producing goods and/or providing services, which are subject to the special consumption tax, must register the tax payment with the tax agencies of the localities where the establishments are headquartered under the tax registration regulations and the guidance of the tax agencies.

The time limit for tax registration shall be within ten days after the business registration certificates are issued.

In case of a merger, consolidation, separation, splitting, dissolution, bankruptcy or ownership-form transformation; assignment, sale, contracting or lease of State enterprises, change of production/business lines or business cessation, the production/business establishments must declare such with the tax agencies at least five days before the above-said changes are made.

Article 8.- Establishments which produce special consumption tax-liable goods items and use trademarks therefor must register such trademark specimens with the tax agencies of the localities where they conduct production/business activities within five days after such trademarks are used. When changing the trademarks, the establishments must declare such with the tax agencies and register specimens of the new trademarks used in replacement of the old ones within five days after the trademarks are changed.

Article 9.- Establishments producing and/or importing goods or providing services, which are subject to the special consumption tax, must make the special consumption tax declaration according to the following regulations:

1. Establishments producing goods and/or providing services, which are subject to the special consumption tax must make monthly special consumption tax declaration when selling goods and/or providing services and submit tax declarations to the tax agencies within the first ten days of the subsequent month. For production/business establishments with large amounts of payable special consumption tax, the special consumption tax declaration shall be made once every five or ten days according to the tax agencies' regulations.

Even if there is no payable special consumption tax in the month, the production/business establishments shall have also to make tax declarations and send them to the tax agencies.

2. The goods-importing establishments must make special consumption tax declarations and submit them upon each importation together with import tax declarations with the customs offices where goods are imported.

3. Establishments producing special consumption tax-liable goods items from raw materials for which the special consumption tax has been already paid, when making special consumption tax declaration at the production stage, shall be entitled to deduct the special consumption tax amounts already paid for such raw materials if they can produce lawful vouchers. The deducted

special consumption tax amounts for raw materials shall not exceed the special consumption tax amounts to be paid at the production stage.

4. Establishments which produce and/or deal in different kinds of goods and/or services subject to the special consumption tax at different tax rates must declare the special consumption tax at the rate prescribed for each kind of goods or services; if they cannot determine the payable tax amount according to each tax rate, they must calculate and pay tax at the highest rate applicable to the goods produced or the services provided by the establishments.

The Ministry of Finance shall provide for tax declaration forms and guide the tax declaration prescribed in this Article.

Article 10.- Special consumption tax shall be remitted into the State budget according to the following regulations:

1. Establishments producing goods and/or providing services, which are subject to the special consumption tax, must remit the special consumption tax into the State budget at their production and/or business places.

The deadline for monthly tax payment shall be the 25th day of the subsequent month; in cases where the production/business establishments have large amounts of payable special consumption tax, they must pay the tax once every five or ten days in accordance with the tax agencies' regulations.

For individuals and households producing goods and/or providing services, which are subject to the special consumption tax, that are based far from the State treasuries, the tax agencies shall collect tax and remit it into the State budget. The time limit for the tax agencies to remit money into the State budget shall be within three days after such money is collected.

The Ministry of Finance shall guide in detail the tax declaration and payment procedures, suitable to the requirements of administrative procedure reforms, raising business establishments' sense of responsibility before law, and at the same time enhancing the work of inspection, examination and handling of law violations by tax agencies in order to ensure the strict and efficient management of tax collection.

2. Establishments importing goods subject to the special consumption tax must pay the special consumption tax upon each importation at the places of tax declaration. The time limits for notification and payment of special consumption tax on import goods shall be the time limits for the import tax notification and payment.

3. The special consumption tax shall be remitted into the State budget in Vietnam dong. In cases where the production/business establishments have goods sale/service provision turnovers in foreign currencies, they must

convert such foreign currencies into Vietnam dong at the exchange rates announced by the State Bank at the time the turnovers are generated to determine the payable special consumption tax amounts in Vietnam dong.

Article 11.- Establishments producing goods and/or providing services, which are subject to the special consumption tax, must make special consumption tax settlement according to the following regulations:

1. Establishments producing goods and/or providing services, which are subject to the special consumption tax, must make annual special consumption tax settlement with the tax agencies. Tax settlement years shall be calendar years. In cases where the business establishments are allowed to apply financial settlement years other than the calendar years, they shall still have to make the special consumption tax settlement according to the calendar years. Within forty five days after the year-end, the establishments must submit their tax settlement reports to the tax agencies and fully remit the deficit tax amounts into the State budget within ten days after submitting the settlement reports; in case of overpayment, the overpaid amounts shall be deducted from the payable tax amounts of the following period.

2. In case of merger, consolidation, separation, splitting, dissolution, bankruptcy or change of ownership form; assignment, sale, contracting, lease of State enterprises or change in business lines, the establishments must make tax settlement with the tax agencies and send tax settlement reports to the tax agencies within forty five days after the issuance of the decisions on such merger, consolidation, separation, splitting, dissolution, bankruptcy or change of ownership form; assignment, sale, contracting, lease of State enterprises or change in business lines, and must fully remit the deficit tax amounts into the State budget within ten days after submitting the settlement reports; in case of overpayment, the overpaid amounts shall be deducted from the payable tax amounts of the following period or reimbursed according to regulations.

Article 12.- Establishments producing and/or importing goods subject to the special consumption tax shall have their paid special consumption tax amounts reimbursed in the following cases where:

1. Goods are temporarily imported for re-export.
2. Goods are raw materials imported for the production or processing of export goods under production or processing contracts with foreign countries.
3. They have overpaid tax amounts in the tax settlement upon the merger, consolidation, separation, splitting, dissolution, bankruptcy or change of ownership form; assignment, sale, contracting, lease of State enterprises or change in business lines.
4. They acquire tax reimbursement decisions issued by competent agencies as prescribed by law.

The special consumption tax reimbursement prescribed in Clauses 1 and 2 of this Article shall apply only to actually exported goods.

The Ministry of Finance shall specify the procedures and competence for tax reimbursement prescribed in this Article.

Article 13.- Establishments producing and/or importing goods or providing services, which are subject to the special consumption tax, shall have to:

1. Make tax registration, declaration, payment and settlement according to regulations; fully comply with tax declaration, settlement and reimbursement forms, and be accountable for the accuracy of their declaration, settlement and reimbursement.
2. Strictly observe the accounting, invoice and voucher regimes when purchasing, selling and/or transporting goods, or providing services subject to the special consumption tax according to law provisions.
3. Fully supply dossiers, documents, data and bases related to the special consumption tax calculation, payment, settlement and requests for tax reimbursement to the tax agencies.

Article 14.- The tax agencies shall have the following tasks, powers and responsibilities:

1. To guide tax payers in tax registration, declaration and payment strictly according to the provisions of the legislation on special consumption tax.
2. To notify the payable tax amounts to the business establishments which have not fully declared the payable tax amounts and to the households or individuals producing goods and/or providing services, which are subject to the special consumption tax, that have not fully complied with the accounting, invoice and voucher regimes; to urge the tax payers to pay tax on time; if past the prescribed time limits, the tax payers fail to pay tax, to notify them of the payable tax amounts and fine amounts for deferred payment according to the provisions in Clauses 2 and 3, Article 17 of Special Consumption Tax Law No. 05/1998/QH10 of May 20, 1998; if the tax payers still fail to fully pay the tax and fine amounts stated in the notices, the coercive measures prescribed in Clause 4, Article 17 of Special Consumption Tax Law No. 05/1998/QH10 of May 20, 1998 may be applied so as to ensure the full collection of the tax amounts and fines; if the above-mentioned measures have been applied, the tax payers still fail to fully pay the tax and fine amounts, the dossiers of the cases shall be transferred to competent State agencies for handling according to law provisions.
3. To examine and inspect the tax declaration, payment and settlement by the tax payers strictly according to law provisions.

4. To handle tax-related administrative violations and settle tax-related complaints.
5. To request tax payers to provide accounting books, invoices, vouchers as well other dossiers and documents related to tax calculation and payment.
6. To archive and use data and documents provided by tax payers and other subjects in accordance with the prescribed regime.

Article 15.- Special consumption tax shall be set according to the following regulations:

1. The tax agencies may set payable special consumption tax amounts in the following cases where:

- a/ Tax payers fail to implement or improperly implement the regimes on accounting, invoices and vouchers;
- b/ Tax payers fail to declare tax or submit tax declarations beyond the prescribed time limits; or they have submitted declarations but falsely declared the bases for determining the special consumption tax amounts;
- c/ Tax payers refuse to produce accounting books, invoices, vouchers and necessary documents related to the calculation of special consumption tax;
- d/ Tax payers conduct business without business registration or have been detected not declaring tax payment;
- e/ Tax payers have declared the sale prices serving as bases for determining the special consumption tax calculation prices as 10% lower than the market sale prices of such goods and/or services. The Ministry of Finance shall guide in detail the determination of the market prices serving as bases for determining the special consumption tax.

2. The tax agencies shall base themselves on the documents related to the investigation of tax payers' production/business activities, the market sale prices of goods and services or on the tax amounts to be paid by other production/business establishments engaged in the same production/business lines with equivalent scales to determine the tax amounts to be paid by the subjects prescribed in Clause 1 of this Article.

Chapter IV

SPECIAL CONSUMPTION TAX REDUCTION AND EXEMPTION

Article 16.- The special consumption tax reduction or exemption as prescribed in Article 16 of the Special Consumption Tax Law is specified as follows:

1. Establishments producing goods subject to the special consumption tax, which meet with difficulties due to natural disasters, enemy sabotage or accidents, shall be considered for special consumption tax reduction or

exemption. The tax reduction or exemption shall be settled in the year when losses are incurred. The reduction levels shall be determined on the basis of the extents of the losses caused by natural disasters, enemy sabotage or accidents, which shall not exceed 30% of tax amounts to be paid under law. In cases where the establishments suffer from great losses, thus being incapable of conducting production/business activities and paying tax, they shall be considered for exemption of special consumption tax.

2. Establishments engaged in the manufacture and/or assembly of automobiles shall enjoy a reduction of the tax rates defined in the special consumption tax tariff prescribed in Article 6 of this Decree as follows:

- a/ A 70% reduction for 2004;
- b/ A 50% reduction of 2005;
- c/ A 30% reduction for 2006;
- d/ From 2007 on, tax shall be paid at the prescribed rates.

The Ministry of Finance shall guide the procedures, order and competence for considering tax reduction or exemption prescribed in this Article.

Chapter V

HANDLING OF VIOLATIONS AND COMMENDATION

Article 17.- Tax payers, tax officials or other individuals that violate the Special Consumption Tax Law shall, depending on their acts and the seriousness of their violations, be sanctioned according to the provisions in Articles 17 and 19 of Special Consumption Tax Law No. 05/1998/QH10 of May 20, 1998. In cases where the Special Consumption Tax Law does not prescribe specific sanctioning levels, the sanctioning shall be applied according to the provisions of legal documents providing for the sanctioning of administrative violations in the tax domain.

Article 18.- Tax agencies and tax officials that well fulfil the assigned tasks; organizations and individuals that record achievements in the implementation of the Special Consumption Tax Law; and tax payers that well fulfil their tax payment obligations shall be commended and/or rewarded according to the Government's regulations.

Chapter VI

ORGANIZATION OF IMPLEMENTATION

Article 19.- This Decree takes implementation effect as from January 1, 2004 and replaces the Government's Decree No. 84/1998/ND-CP of October 12, 1998 detailing the implementation of the Special Consumption Tax Law.

The solution of problems and the handling of violations related to special consumption tax before January 1, 2004 shall comply with the corresponding

regulations of the Special Consumption Tax Law and the regulations in legal documents on special consumption tax which are effective at that time.

Article 20.- In cases where international treaties which the Socialist Republic of Vietnam has signed or acceded to contain provisions different from those of the Special Consumption Tax Law, the special consumption tax shall comply with such treaties.

Article 21.- The special consumption tax collection is prescribed as follows:

1. The tax agencies shall have to collect special consumption tax from establishments producing goods and/or providing services, which are subject to the special consumption tax.
2. The customs offices shall have to collect special consumption tax from establishments importing goods subject to the special consumption tax.
3. The tax agencies and the customs offices shall have to coordinate with each other in managing the special consumption tax collection nationwide.

The Ministry of Finance shall specify the collection of special consumption tax prescribed in this Article.

Article 22.- The Ministry of Finance shall guide the implementation of this Decree.

The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government and the presidents of the provincial/municipal People's Committees shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI