

GOVERNMENT
No. 24-2007-ND-CP

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

Hanoi , 14 February 2007

DECREE ON CORPORATE INCOME TAX

Making detailed provisions for implementation of the

Law on Corporate Income Tax

The Government

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

Pursuant to the Law on Corporate Income Tax 09-2003-QH11 dated 17 June 2003 ;

On the proposal of the Minister of Finance;

Decrees:

CHAPTER I

Scope of Application of Corporate Income Tax

Article 1

Organizations and individuals producing and trading goods and services (hereinafter collectively referred to as business establishments) and earning income shall be liable to pay corporate income tax in accordance with the provisions in this Decree.

1. Organizations producing and trading goods and services shall comprise State owned enterprises; limited liability companies; shareholding companies; partnerships; enterprises with foreign owned capital and foreign parties to business co-operation contracts under the Law on Investment and the Law on Enterprises; foreign companies and foreign institutions conducting business activities in Vietnam beyond the scope of the Law on Investment and the Law on Enterprises; private enterprises; co-operatives and co-operative coalitions (hereinafter collectively referred to as cooperatives) and co-operation groups; economic institutions of political organizations, socio-political organizations, social organizations, socio-professional organizations and units of the people's armed forces; and administrative and professional bodies engaged in production and trading of goods and services.

2. Domestic individuals producing and trading goods and services shall comprise:

- (a) Business individuals and groups of business individuals;
- (b) Individual business households;

(c) Freelancers, namely: medical practitioners, lawyers, accountants, auditors, painters, architects, music composers and other freelancers;

(d) Individuals leasing out assets such as houses, land, means of transportation, machinery, equipment, and other types of assets.

3. Foreigners conducting business in Vietnam with income sourced in Vietnam, irrespective of whether the business operation is conducted in Vietnam or overseas.

4. Companies overseas conducting business activities through resident establishments in Vietnam.

A resident establishment means a business establishment through which a company overseas conducts all or a part of its business activities in Vietnam which earn income. A resident establishment of a company overseas may take the following main forms:

(a) Branch, operational office, plant, workshop, warehouse for receipt and delivery of goods, means of transportation, mine, petroleum or gas field, and any location where natural resources are explored or exploited or where there are equipment and facilities serving the exploration of natural resources;

(b) Construction site, construction works, or installation and assembly works; location of supervisory activities for construction, construction works, or installation and assembly works;

(c) Establishment providing services, including consultancy services provided through its employees or another entity;

(d) Agent for a company overseas;

(dd) Representative in Vietnam in the following cases:

- Where it has authority to enter into contracts in the name of a company overseas;
- Where it is not competent to enter into contracts in the name of a foreign company but regularly delivers goods or provides services in Vietnam.

Where a treaty on avoidance of double taxation to which the Socialist Republic of Vietnam is a signatory contains different provisions relating to resident establishments, such treaty shall prevail.

Article 2

Subjects not liable to pay corporate income tax shall comprise family households, individuals, co-operatives and co-operation groups engaged in agricultural production and earning income from products of cultivation, husbandry and aquaculture, except for rural family households and individuals engaged in producing large quantities of goods and earning high income.

Separate regulations shall apply to payment of corporate income tax by rural family households and individuals engaged in agricultural production and

earning high income from large production from cultivation, husbandry and aquaculture. The Ministry of Finance is assigned to preside over co-ordination with the Ministry of Agriculture and Rural Development and the Ministry of Marine Products to submit regulations to the Government for promulgation on corporate income tax applicable to these subjects.

CHAPTER II

Bases for Tax Calculation and Tax Rates

Article 3

The bases for calculation of corporate income tax shall be taxable income in any one tax period and tax rates.

A tax period for calculating corporate income tax shall be fixed in accordance with the Gregorian calendar year or a financial year.

Article 4

Turnover used to calculate taxable income shall be determined as follows:

1. Turnover used to calculate taxable income shall be total sales revenue, fees for provision of services, including price subsidies, additional charges or additional excesses earned by a business establishment, irrespective of whether or not the revenue is actually received.

If a business establishment pays value added tax by the tax credit method, turnover used to calculate taxable income shall be turnover excluding value added tax. If a business establishment pays value added tax calculated directly on the basis of added value, turnover used to calculate taxable income shall include value added tax.

2. The point of time for fixing turnover in order to calculate taxable income in respect of the sale of goods or provision of services shall be when ownership of the goods is transferred or when the services are completed or when an invoice is issued for the goods or services.

3. Turnover used to calculate taxable income shall be determined in a number of specific cases as follows:

(a) Where goods are sold by way of installment payments, the turnover on goods sold shall be calculated on a lump sum payment price excluding any interest payable on installments or interest on deferred payment.

(b) With respect to goods or services used for the purpose of exchange, donation or internal use, turnover shall be calculated on the basis of the selling price of products, goods or services of the same or similar kind at the time of exchange, donation or internal use.

(c) With respect to processing of goods, the turnover used to calculate taxable income shall be turnover from processing including fees, fuel, power, sub-materials and other expenses required for processing the goods.

(d) With respect to leasing out assets, turnover used to calculate taxable income shall be the amount the lessee pays for each term under the lease contract. If a lessee pays rent in advance for a number of years, turnover used to calculate taxable income shall be allocated over the number of years for which payment was made in advance or turnover shall be fixed as the sum paid on the one occasion.

The Ministry of Finance shall provide specific guidelines on determining turnover when rent is paid in advance for a number of years in order that the calculation of taxable income shall be consistent with each type of business establishment governed by this article.

(dd) With respect to credit operations, turnover used to calculate taxable income shall be loan interest collectible and arising in any one tax period.

(e) The Ministry of Finance shall provide regulations on determining turnover used to calculate taxable income in a number of other cases.

Article 5

Reasonable expenses which are deductible for the purpose of calculation of taxable income shall comprise:

1. Depreciation of fixed assets used for producing or trading goods and services. The rate of depreciation of fixed assets shall be based on the value of such assets and the period for which depreciation expenses are deducted. Business establishments which produce or trade goods and services and which achieve high economic efficiency shall be entitled to conduct accelerated depreciation at a maximum rate not to exceed twice the level of depreciation pursuant to the regime for quick renewal of technology.

The Ministry of Finance shall provide regulations on standards applicable to fixed assets, duration and rates of depreciation of fixed assets, and accelerated depreciation as prescribed in this article.

2. Costs of raw materials, supplies, fuel, power and goods actually used for production, business and service activities relating to the turnover and taxable income of the relevant period shall be calculated on the basis of reasonable consumption levels and actual ex-work prices which each business establishment shall itself establish and for which it shall be responsible before the law.

If a business establishment purchases any of the following products without the invoices and vouchers prescribed by the applicable regulations, it shall prepare a List in accordance with regulations of the Ministry of Finance on the basis of the payment voucher to the seller of goods or supplier of services, namely: products made directly by farmers from rattan, bamboo, reed, coconut or grass; handcraft products made by non-business artisans; soil,

stone, sand or gravel mined by a citizen himself; scrap sold by a person who collected it himself; and a number of other services provided by non-business individuals. Directors of business establishments shall approve the expenses on the List and shall be responsible before the law for the accuracy and truthfulness of the List.

3. Salaries, wages and allowances payable to employees in accordance with the provisions of the Labor Code, and mid-shift meals and fixed meal allowances:

(a) Salaries, wages and allowances payable to employees in State owned enterprises shall be included in reasonable expenses in accordance with the current regime;

(b) Salaries, wages and allowances payable to employees in other business establishments shall be included in reasonable expenses in accordance with labor contracts;

(c) Mid-shift meal allowances for employees shall be included in reasonable expenses but the maximum shall not exceed minimum salary levels stipulated by the State for State employees;

(d) Fixed meal allowances payable to employees in a number of special trades in accordance with the regime of the State.

4. Expenses for scientific and technological research and for innovations and improvements, costs of health care, costs of training employees pursuant to the stipulated regime, and expenses being educational assistance.

5. Costs of hired services being electricity, water, telephones; repair of fixed assets, hire of fixed assets; auditing and legal services; design, determination and protection of trademarks; insurance of assets; costs of purchase of and charges for use of technical data, patents and technology licenses not forming part of fixed assets; technical services and other hired services.

6. Other expenses:

(a) Payments made to female employees, comprising:

- Expenses for retraining female employees where their previous jobs become redundant and the business establishment has a developmental plan requiring conversion to new jobs; These expenses shall include school fees (if any) plus the difference between salary rates for different grades of employees (ensuring payment of one hundred (100) per cent of salary to employees during the time they are in school);

- Costs of salaries and allowances (if any) for teachers at kindergartens and primary schools run and managed by the enterprise. The number of teachers shall be determined in accordance with the regulations on educational systems;

- Costs of one additional annual medical examination for female employees in respect of occupational illness, chronic illness or gynecological examination;

- Costs being payments to female employees after the birth of their children.

Based on the law on labor and the actual fluctuation in the cost of living from

time to time, the Ministry of Finance shall co-ordinate with the Ministry of Labor, War Invalids and Social Affairs to fix the maximum costs payable to female employees after the birth of their children.

- Costs of overtime allowances in accordance with current regulations paid to female employees when, for objective reasons, they do not have a rest break to return home to breastfeed their babies but remain working at the business establishment;

If a business establishment engaged in production, construction or transportation business employs many female employees and accounts separately for the above expenses actually paid, it may be entitled to a reduction of corporate income tax in accordance with article 41 of this Decree;

(b) Costs of protective clothing, uniforms or equipment for staff in accordance with the Labor Code:

Where the rules of a business establishment require staff to wear the same uniform, costs of purchasing uniforms for staff may be included in reasonable expenses;

(c) Costs of security of business establishments; travel expenses;

(d) Costs being contributions to social and medical insurance funds within the responsibility of the business establishment employing workers; funding for the trade union; funding for the activities of the Party and mass organizations at business establishments; and contributions to management costs of the higher level and contributions to funds of professional associations pursuant to the stipulated regime.

7. Payment of interest on loans for production and trading of goods and services borrowed from credit institutions, financial institutions and economic institutions at actual interest rates, and on loans from other entities at the actual interest rate but not more than one point two (1.2) times the interest rate on loans from commercial banks at the time of the loan.

8. Contingency provisions in accordance with applicable regulations.

9. Retrenchment benefits paid to employees in accordance with applicable regulations.

10. Expenses relating to sales of goods and services, including costs of preservation, packaging, transportation, loading, unloading, rental of warehouses and storage areas, warranty of goods and products.

11. Expenses for advertising, marketing, promotion, receptions and formal occasions, expenses for transactions, expenses for broker's commissions, expenses for meetings and other expenses directly relating to production and trading goods and services, but not to exceed ten (10) per cent of the total reasonable expenses listed above in clauses 1 to 10 inclusive of this article. In the case of commercial trading activities, reasonable expenses for the purpose of calculating this limit shall not include the purchase price of goods sold.

12. Taxes, fees, charges and land rent which are mandatory and relate to production, business and service activities (except for corporate income tax) comprising:

- (a) Export and import duties;
- (b) Special sales tax;
- (c) Value added tax in the case of business establishments paying value added tax calculated directly on the basis of added value; value added tax in the case of business establishments paying value added tax by the tax credit method where they purchase or import goods or services in order to produce goods or provide services which are not subject to value added tax; input value added tax in the case of export goods and services which do not satisfy the conditions stipulated in the law on value added tax for payment of value added tax by the tax credit method and for a refund of value added tax paid; input value added tax may not be deducted when it is declared outside the time-limit stipulated in the regulations;
- (d) Business registration fees;
- (dd) Royalties;
- (e) Agricultural land use tax;
- (g) Land and housing tax;
- (h) Other fees and charges payable in accordance with law;
- (i) Land rent.

13. Business operational expenses allocated by companies overseas to their resident establishments in Vietnam in accordance with the ratio of the turnover earned in Vietnam by the resident establishment and the total overall turnover of the company overseas, including turnover of resident establishments in other countries.

Resident establishments of companies overseas in Vietnam which do not implement the regime on accounting and accounting source documents and which pay tax by the declaration method shall not be permitted to include in their reasonable expenses any business operational expenses allocated by companies overseas to them pursuant to this clause.

Article 6

The following items shall not be included in reasonable expenses:

1. Costs of salaries where a business establishment fails to implement correctly the regime on labor contracts in accordance with the law on labor, except where seasonal workers are hired.

Salary and wages of owners of private enterprises, members of partnerships, heads of individual households and individual business people; and remuneration paid to founding members, members of boards of management of limited liability companies and shareholding companies who are not directly involved in the management of production and trading of goods and

services.

2. Amounts advanced for expenses but not actually expended in full, including expenses for major repairs of fixed assets; warranty fees for goods and products, for construction works; and other amounts advanced.
3. Expenses incurred without invoices or source documents as required by the regulations or with unlawful invoices or source documents.
4. Fines for administrative offences such as breaches of traffic laws, breaches of business registration regulations, fines for breaches of accounting-statistics regulations, fines for tax offences and other administrative offences.
5. Expenses unrelated to turnover or taxable income such as expenses of investment in capital construction; expenses for supporting localities, mass organizations and social organizations outside the establishment; charity expenses and other expenses unrelated to turnover or taxable income.
6. Expenses covered by other sources of funding, such as professional expenses, and allowances for regular and irregular difficulties.

Article 7

Revenue, reasonable expenses and taxable income shall be determined in Vietnamese dong. A business establishment with revenue, reasonable expenses and taxable income in foreign currency must convert it into Vietnamese dong at the foreign currency conversion rate announced by the State Bank at the time when such revenue or expenses arise, unless the law otherwise provides. Foreign currencies for which there is no exchange rate with Vietnamese dong must be converted via a foreign currency for which there is an exchange rate with Vietnamese dong.

Article 8

Taxable income to be determined shall comprise income from activities being production and trading goods and services and other income in a tax period, including income from production and trading goods and services overseas.

1. Taxable income from activities being production and trading goods and services shall equal (=) turnover used to calculate taxable income less (-) reasonable expenses relating to the activities being production and trading goods and services in the tax period.

Business establishments earning income distributed to them because they have made a capital contribution to a joint venture, shareholding company or economic partnership shall not be required to pay corporate income tax when such joint venture, shareholding company or economic partnership has already paid corporate income tax on the income prior to distribution.

2. Other taxable income in a tax period shall comprise:

- (a) Difference between purchase and sale of securities;

- (b) Income from activities relating to the ownership of intellectual property or copyright;
- (c) Other income from the ownership of or right to use assets;
- (d) Income from assignment of land use rights or land lease rights;
- (dd) Income from assignment or liquidation of assets;
- (e) Interest on deposits, loans, or sales of goods with deferred payment;
- (g) Difference earned from the sale or exchange of foreign currency;
- (h) Annual closing balance of contingency reserves in accordance with the stipulated regime;
- (i) Income earned from bad debts which were written-off and are now repaid;
- (k) Income from accounts payable the creditors of which are unidentified;
- (l) Income from production, business or services omitted in previous years which has been newly discovered;
- (m) Income earned from production and trading of goods and services overseas;

Where tax is paid overseas on income earned from production and trading of goods and services overseas, the business establishment shall determine its pre-tax income for the purpose of calculating corporate income tax payable in Vietnam. Taxable income shall be income prior to payment of income tax in such foreign country, but the deducted amount of foreign tax may not exceed the amount of tax payable under the Law on Corporate Income Tax of Vietnam;

- (n) Income relating to the sale of goods or provision of services not included in turnover, after all expenses for earning such income have been deducted in accordance with regulations of the Ministry of Finance;
- (o) Income from assignment of capital;
- (p) Other items of income not stipulated in detail in this article.

3. Where a treaty on avoidance of double taxation to which the Socialist Republic of Vietnam is a signatory contains different provisions from those in clauses 1 and 2 of this article on the determination of taxable income of resident establishments, such treaty shall prevail.

Article 9

The following corporate income tax rates shall apply to business establishments:

1. The rate of corporate income tax applicable to business establishments shall be twenty eight (28) percent.
2. The rate of corporate income tax applicable to business establishments conducting prospecting, exploration and exploitation of petroleum and gas and other rare and precious natural resources shall be from twenty eight (28) per cent to fifty (50) per cent.

The Prime Minister of the Government shall decide the specific tax rate applicable to each business establishment conducting prospecting, exploration

and exploitation of petroleum and gas and other rare and precious natural resources, on the proposal of the Minister of Finance.

3. Lotteries businesses shall pay corporate income tax at the rate of twenty eight (28) per cent. The Ministry of Finance shall provide specific regulations on the financial regime applicable to after-tax income of lotteries operations.

CHAPTER III

Determining Taxable Income and Income Tax on Assignment of

Land Use Rights and Assignment of Land Lease Rights

Article 10

Income from assignment of land use rights and from assignment of land lease rights shall be subject to income tax as follows:

1. Cases of assignment of land use rights:

- (a) Assignment of land use rights without any infrastructure or buildings on the land;
- (b) Assignment of land use rights together with infrastructure on the land;
- (c) Assignment of land use rights together with buildings on the land;
- (d) Assignment of land use rights together with infrastructure and buildings on the land.

2. Cases of assignment of land lease rights:

- (a) Assignment of land lease rights without any infrastructure or buildings on the land;
- (b) Assignment of land lease rights together with infrastructure on the land;
- (c) Assignment of land lease rights together with buildings on the land;
- (d) Assignment of land lease rights together with infrastructure and buildings on the land.

Article 11

The following cases of assignment of land use rights and assignment of land lease rights shall not be liable to pay income tax:

- 1. The State assigns land or leases land to a business establishment.
- 2. An organization producing and trading goods and services returns land to the State or the State recovers land pursuant to law.
- 3. An organization producing and trading goods and services sells a factory together with assignment of land use rights or land lease rights in order to transfer its location in accordance with zoning.
- 4. An organization producing and trading goods and services contributes capital in the form of land use rights in order to co-operate in production or

business with domestic or foreign organizations and individuals pursuant to law.

5. An organization producing and trading goods and services assigns land use rights or land lease rights as a result of division, separation, merger or bankruptcy.

6. The owner of a private enterprise assigns land use rights in a case of inheritance or divorce in accordance with law; assignment of land use rights as between husband and wife, parents and children, grandparents and grandchildren or as between siblings.

7. An organization producing and trading goods and services donates land use rights or land lease rights to the State or to an organization in order to construct cultural, health care or sports facilities; or assigns land use rights for humanitarian purposes to those entitled to social policies.

Article 12

Income tax payers from the assignment of land use rights or land lease rights shall be organizations producing and trading goods and services and earning income from the assignment of land use rights or land lease rights.

Business family households and individuals trading in goods and services and earning income from the assignment of land use rights or land lease rights shall not be liable to pay income tax on such assignment in accordance with this Decree, but shall be liable to pay tax in accordance with the current law on tax on assignment of land use rights.

Article 13

Taxable income from an assignment of land use rights or from an assignment of land lease rights shall be determined as equal to (=) the turnover used to calculate taxable income less (-) reasonable expenses of the assignment of land use rights or land lease rights.

1. Turnover used to calculate taxable income from the assignment of land use rights or land lease rights shall be the actual price of assignment between the organization producing and trading goods and services as assignor and the assignee at the time of the assignment.

The actual price of assignment shall be determined as follows:

- In accordance with the price stated on the invoice or the actual sum the assignor receives from the assignee; If the actual price of an assignment is less than the price decided by the people's committee of the province or city under central authority, the turnover used to calculate taxable income from the assignment of land use rights or land lease rights shall be the price decided by such people's committee.

- In accordance with the winning bid at an auction in the case of auction of land use rights or land lease rights.

Turnover used to calculate taxable income in a number of special cases shall be provided for as follows:

(a) In the case of assignment of land use rights or land lease rights together with infrastructure on the land, the turnover shall include the sum received for assigning ownership of infrastructure on the land or the sum received for leasing infrastructure on the land;

(b) In the case of assignment of land use rights or land lease rights together with buildings on the land, turnover for assignment of buildings on the land shall be calculated separately. If a taxpayer fails to separate out the proceeds from assignment of buildings on the land, the turnover used to calculate taxable income shall also include such proceeds.

2. Expenses of assignment of land use rights or land lease rights:

(a) Expenses in order to have land use rights or land lease rights shall comprise:

- Prime cost of the land which shall be determined as follows:

- With respect to land assigned by the State with collection of land use fees or land rent, the prime cost shall be the amount stated on the invoice of the State for collection of land use fees or land rent;

- With respect to land for which land use rights or land lease rights are received from another organization or individual, the prime cost shall be the amount stated in the contract and legal voucher for payment upon receipt of the land use rights;

- With respect to an organization producing and trading goods and services which exchanges building works to receive land from the State, the prime cost shall be the value of the exchanged building works;

- With respect to an auction of land use rights or land lease rights, the prime cost shall be the winning bid;

- With respect to land for which land use rights or land lease rights are assigned by a limited liability company or shareholding company and the origin of such land was capital contribution to a joint venture, the prime cost shall be as stated in the minutes on capital contribution of the board of management;

- With respect to an organization producing and trading goods and services which inherited land use rights in accordance with civil law, or received it by way of donation without a prime cost being fixed, the prime cost shall be fixed on the basis of prices for various types of land decided by the people's committee of the province or city under central authority based on the framework of prices for all types of land stipulated by the Government at the time of inheritance or receipt of the land use rights.

Where an organization producing and trading goods and services inherited or received by way of donation prior to 1994, the prime cost shall be fixed on the basis of prices for various types of land decided by the people's committee of the province or city under central authority based on the framework of prices

for all types of land stipulated in Decree 87-CP of the Government dated 17 August 1994.

- Costs being compensation for loss of land not deducted from land use fees or land rental.
- Costs being compensation for loss of crops.
- Costs being assistance to relocate to new housing.
- Costs being assistance to relocate graves.
- Other costs being assistance to clear land.
- Costs being fees and charges in accordance with the law relating to issuance of land use rights.

(b) Expenses of land improvement and of leveling a site.

(c) Expenses of investment and construction of infrastructure and buildings on the land.

(d) Expenses stipulated in article 5 of this Decree. Where an organization producing and trading goods and services conducts business in a number of industries, these expenses shall be allocated at the ratio being turnover from assignment of land use rights or land lease rights over total turnover from activities being production and trading of goods and services.

(dd) Where turnover used to calculate taxable income includes buildings on the land, when determining expenses, such expenses shall also include the value of buildings on the land.

Article 14

Income tax rates on assignment of land use rights and land lease rights

1. The rate of income tax applicable to assignment of land use rights and land lease rights shall be twenty eight (28) per cent.
2. After calculation of income tax at the rate of twenty eight (28) per cent pursuant to clause 1 of this article, additional income tax shall be payable on the residual income in accordance with the following progressive method tariff:

Progressive Method Tax Tariff

| Level | Rate of Residual Income over Expenses | Tax Rate |
|-------|---------------------------------------|----------|
| 1. | Up to 15% | 0% |
| 2. | From 15% up to 30% | 10% |
| 3. | From 30% up to 45% | 15% |
| 4. | From 45% up to 60% | 20% |
| 5. | From 60% | 25% |

Article 15

Preferential corporate income tax rates and the tax exemptions and reductions prescribed in Chapter V of this Decree shall not apply to income from assignment of land use rights or land lease rights.

Article 16

Any organization producing and trading goods and services which assigns ownership of buildings on land or of infrastructure on land shall carry out the procedures for assignment of land use rights or land lease rights together with buildings and infrastructure on the land.

Article 17

Procedures for declaration and payment of tax by any organization producing and trading goods and services which does not regularly conduct the business of assignment of land use rights and land lease rights shall be regulated as follows:

Based on the file and data received from the body managing land, the tax office shall request the organization producing and trading goods and services to declare its turnover, expenses, taxable income and the amount of tax payable on the form stipulated by the Ministry of Finance and lodge it with the tax office directly in charge of the taxpayer within a time-limit of ten (10) days from the date of receipt of such request. The tax office shall check and verify the tax declaration based on the invoices and vouchers reflected in the books of account of the business establishment and shall issue a tax notice specifying the amount of tax and time-limit for payment in respect of the assignment of land use rights or land lease rights.

The time-limit for paying the tax stated in the notice shall be no later than fifteen (15) days from the date of issuance of the tax notice. A certificate of land use rights or land lease rights shall only be issued in accordance with law to the assignee of such rights when there are minutes or an invoice proving payment of tax in respect of the area of land for which the land use rights or land lease rights are assigned.

Article 18

Organizations producing and trading goods and services and conducting the business of housing and land, infrastructure and buildings on land shall pay tax and conduct tax finalization in accordance with the provisions in Chapter IV of this Decree, and must conduct separate tax finalization for income tax on assignment of land use rights and land lease rights. If provisional income tax paid is less than the amount payable pursuant to the declaration of tax finalization, the organization must pay the shortfall within a time limit of ten

(10) days from the date on which the organization lodges its declaration of tax finalization. If provisional income tax paid is more than the amount payable pursuant to the declaration of tax finalization, the excess shall be deducted from the shortfall of tax payable on other business operations of the organization or shall be deducted from the amount of income tax payable on assignment of land use rights and land lease rights in the next period. If the business of assignment of land use rights and land lease rights results in a loss, an organization may carry forward the loss to taxable income from the business of assignment of land use rights and land lease rights in the following years in accordance with article 42 of this Decree.

Article 19

The tax office shall have the right to impose an administrative tax penalty on any business establishment which lodges out of time its declaration of income tax payable on an assignment of land use rights or land lease rights, or which conducts tax finalization or which pays tax on such an assignment outside the time limit stipulated by law. Where, upon conducting a check or inspection of tax declaration or tax finalization, the tax office discovers an incorrect price of an assignment or incorrect expenses or taxable income arising from an assignment of land use rights or land lease rights, the tax office shall have the right to re-determine a market price for the assignment and to re-determine reasonable expenses and income in order to ensure collection of the full and proper income tax payable on the assignment of land use rights or land lease rights and, at the same time, the tax office shall impose a penalty on the business establishment for its false tax declaration or tax evasion.

CHAPTER IV

Registration, Declaration, Payment and Finalization of Tax

Article 20

Business establishments shall be responsible for registering for corporate income tax at the same time as registration for payment of value added tax. Procedures for registering for tax shall be conducted in accordance with article 11 of Decree 158-2003-ND-CP of the Government dated 10 December 2003 making detailed provisions for implementation of the Law on Value Added Tax (Amended).

Article 21

Business establishments shall be responsible for making a declaration of

turnover, expenses, taxable income and amount of tax payable for the whole year and divided into each quarter on the declaration form of the tax office and for submitting it to the tax office directly in charge no later than the twenty fifth day of January each year, or in the case of a business establishment permitted to apply a financial year other than the Gregorian year then no later than the twenty fifth day of the month after the last month of such applicable financial year. The Ministry of Finance shall regulate the standard form for declaration of corporate income tax. Where, upon conducting a check or inspection, the tax office discovers that the tax declaration of a business establishment is incorrect in terms of the actual status of production and trading goods and services by the establishment, the tax office shall have the right, based on the ratio of taxable income of the establishment over turnover of the previous year or based on taxable income of business establishments in the same industry which have a similar business scale, to fix the amount of tax provisionally payable for the whole year and for each quarter and shall notify the business establishment for implementation.

Article 22

If there are changes to the production and business situation of a business establishment, the business establishment shall notify the tax office directly managing it in order that the tax office may adjust the amount of tax provisionally payable for the whole year and for each quarter. Upon receipt of a request from a business establishment for adjustment of the amount of tax provisionally payable for the whole year and for each quarter, the tax office shall consider the matter and notify the business establishment of the provisional tax payable as adjusted, or in a case of non-approval the tax office shall notify the business establishment of the reasons therefore.

Article 23

The Ministry of Finance shall provide guidelines on determination of turnover and the rate of taxable income over turnover in order to fix the tax payable by business establishments which do not yet maintain books of account, invoices and other source documents as prescribed in article 12.2 of the Law on Corporate Income Tax, appropriate for each line of business and business locality.

Article 24

Payment of corporate income tax shall be provided for as follows:

1. Business establishments shall pay in full and in a timely manner the amounts of tax provisionally payable for each quarter into the State Budget in accordance with their declaration of corporate income tax or in accordance

with the amount fixed by the tax office. The time-limit for tax payment for each quarter shall be no later than the last day of the quarter.

2. Business establishments which do not yet maintain books of account, invoices and other source documents as prescribed in article 12.2 of the Law on Corporate Income Tax shall pay tax monthly in accordance with the notice issued by the tax office. The time-limit for payment shall be stipulated in the tax notice and shall be no later than the twenty fifth day of the following month.

3. Business establishments trading in lots must declare and pay tax in respect of each lot of goods to the local tax office where the goods are purchased prior to the goods being taken away.

4. In respect of foreign business organizations and individuals having no resident establishments in Vietnam but having income sourced in Vietnam, the organizations and individuals in Vietnam paying income to such foreign entities shall be responsible for deducting tax at the ratio of such total income as regulated by the Ministry of Finance prior to paying income to such foreign parties.

Article 25

Corporate income tax shall be calculated and paid in Vietnamese dong.

Article 26

Annually, business establishments shall conduct corporate income tax finalization with the tax office in accordance with the form stipulated by the Ministry of Finance.

A year for the purpose of corporate income tax finalization shall be the Gregorian year. Where a business establishment is permitted to apply a financial year other than the Gregorian year, tax finalization shall be conducted in accordance with such financial year.

Tax finalization shall include complete and proper items on turnover, reasonable expenses, taxable income, the amount of tax payable, the amount of tax exempted or reduced, the amount of income tax provisionally paid for the year, the amount of income tax paid overseas in respect of income received overseas, and the amount of any shortfall or excess amount of income tax.

Article 27

Business establishments shall submit tax finalization declarations to the tax office within ninety (90) days from the last date of the Gregorian year or financial year. If the amount of income tax provisionally paid for the year is less than the amount of income tax payable pursuant to the tax finalization

declaration, business establishments shall pay the shortfall within ten (10) days from the date of submitting the tax finalization declarations; if the amount of income tax provisionally paid for the year is more than the amount of income tax payable pursuant to the tax finalization declaration, business establishments may deduct such excess from the amount of tax payable in the next period.

Article 28

In cases of conversion of form of enterprise, conversion of form of ownership, merger, consolidation, division, dissolution or bankruptcy, business establishments shall submit tax finalization declarations to the tax office within forty five (45) days after issuance of the decision on conversion of form of enterprise, conversion of form of ownership, merger, consolidation, division, dissolution or bankruptcy.

Article 29

Tax offices shall, after receiving tax finalization declarations from business establishments, consider and classify the declarations in order to organize checks and inspections.

The Ministry of Finance shall promulgate guidelines on classification of tax finalization declarations and shall promulgate regulations on the checks and inspections referred to in this article.

Article 30

If a check or inspection of a tax declaration, tax payment or tax finalization by a business establishment reveals that sale prices, purchase prices, business expenses, taxable income or other elements of the business establishment are unreasonable, the tax office shall have the right to refit purchase and selling prices at domestic and foreign market prices, and also to refit expenses, taxable income and other elements in order to ensure collection of the correct and full amount of corporate income tax.

The Ministry of Finance shall promulgate guidelines on determination of purchase and selling prices of goods and services at market prices as prescribed in this article.

Article 31

Tax offices shall have the following duties, powers and responsibilities:

1. To provide business establishments with guidelines for declaration and payment of tax in accordance with the Law on Corporate Income Tax.
2. To issue notices to business establishments which do not implement the regime on accounting and accounting source documents of the amount of tax payable monthly and the time-limit for making payment as provided for in

article 24.2 of this Decree, and to fix tax in the cases regulated in articles 30 and 32 of this Decree.

3. To issue notices to business establishments regarding late lodgment of tax declarations, late payment of tax and regarding decisions on penalties for tax offences. Where a business establishment fails to pay in full the tax and fines stated in such notice, the tax office may take action as provided for in article 23.4 of the Law on Corporate Income Tax in order to recover taxes and fines in full. Where the business establishment continues to fail to pay in full the taxes and fines after such action has been taken, the tax office shall forward the relevant documents to the authorized State body for resolution in accordance with law.

4. To check and inspect the declaration, payment and finalization of tax by business establishments.

5. To impose administrative tax penalties and to resolve tax complaints.

6. To request business establishments to provide books of account, invoices, source documents and other documents relating to the calculation and payment of tax; to request credit organizations, banks and other relevant organizations and individuals to provide documents relating to the calculation and payment of tax.

7. To archive and use data and documents provided by business establishments and others in accordance with applicable regulations.

Article 32

The tax office shall have the right to fix taxable income for the purpose of calculation of the amounts of tax payable by business establishments in the following cases:

1. Failure to maintain, or maintain adequately, books of account, invoices and source documents as required by the regulations.

2. Failure to declare, or declare accurately, the bases for tax calculation or failure to substantiate the contents of declaration forms as requested by the tax office.

3. Refusal to provide books of account, invoices, source documents and other necessary documents relating to calculation of tax.

4. Discovery of business activities conducted without business registration. The tax office shall fix taxable income on the basis of the examination of documents on the business situation of the business establishment or according to the taxable income of other business establishments of similar size operating in the same line of business.

Where a business establishment is not satisfied with the amount of its taxable income as fixed by the tax office, it shall have the right to lodge a complaint to the superior tax office or to institute legal proceedings in accordance with law. Pending resolution of the complaint, the business establishment must still pay the amount of tax as fixed.

Article 33

Conditions for application of corporate income tax incentives Investment projects which satisfy one of the following conditions shall be entitled to corporate income tax incentives:

1. Investment in an industry [and/or] sector on the list of investment incentive sectors promulgated by the Government in accordance with the Law on Investment.
2. Investment in an industry [and/or] sector on the list of special investment incentive sectors promulgated by the Government in accordance with the Law on Investment.
3. Investment in a region on the list of regions with difficult socio-economic conditions as promulgated by the Government in accordance with the Law on Investment.
4. Investment in a region on the list of regions with specially difficult socio-economic conditions as promulgated by the Government in accordance with the Law on Investment.

Article 34

Applicable preferential tax rates and the period for which they are applicable

1. The tax rate of twenty (20) per cent shall apply for ten (10) years as from the date of commencement of business operations as follows:
 - (a) To a co-operative established in a region not on the lists of regions with difficult socioeconomic conditions and with specially difficult socio-economic conditions;
 - (b) To a business establishment newly established from an investment project in an industry [and/or] sector on the list of investment incentive sectors;
 - (c) To a business establishment newly established from an investment project implemented in a region on the list of regions with difficult socio-economic conditions.
2. The tax rate of fifteen (15) per cent shall apply for twelve (12) years as from the date of commencement of business operations as follows:
 - (a) To a co-operative established in a region on the lists of regions with difficult socio-economic conditions;
 - (b) To a business establishment newly established from an investment project in an industry [and/or] sector on the list of investment incentive sectors and which is implemented in a region on the list of regions with difficult socio-economic conditions.

3. The tax rate of ten (10) per cent shall apply for fifteen (15) years as from the date of commencement of business operations as follows:

- (a) To a co-operative or business establishment newly established from an investment project which is implemented in a region on the list of regions with specially difficult socio-economic conditions;
- (b) To a business establishment newly established from an investment project in an industry [and/or] sector on the list of investment incentive sectors.

In the case of a business establishment newly established from an investment project in an industry [and/or] sector on the list of special investment incentive sectors and which has a major impact on the economy [and/or] society, the Ministry of Finance shall make a submission to the Prime Minister of the Government to make a decision on application of the preferential ten (10) per cent rate for the whole duration of implementation of the project.

Upon expiry of the duration prescribed in clauses 1, 2 and 3 of this article, any co-operative or business establishment newly established from an investment project must pay corporate income tax at the rate of twenty eight (28) percent.

Article 35

Corporate income tax payable by business establishments newly established from investment projects and by business establishments which relocate shall be exempted or reduced as follows:

- 1. A production establishment newly established from an investment project and a business establishment which relocates from an urban area in accordance with approved planning shall be exempted from corporate income tax for the first two years from when taxable income arises and shall be entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for two subsequent years.
- 2. A business establishment newly established from an investment project in an industry [and/or] sector on the list of investment incentive sectors shall be exempted from corporate income tax for the first two years from when taxable income arises and shall be entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for three subsequent years.
- 3. A business establishment newly established from an investment project in a region on the list of regions with difficult socio-economic conditions and a business establishment which relocates to a region on the list of regions with difficult socio-economic conditions shall be exempted from corporate income tax for the first two years from when taxable income arises and shall be

entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for six subsequent years.

4. A business establishment newly established from an investment project in an industry [and/or] sector on the list of investment incentive sectors and which is implemented in a region on the list of regions with difficult socio-economic conditions shall be exempted from corporate income tax for the first three years from when taxable income arises and shall be entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for seven subsequent years.

5. A business establishment newly established from an investment project in an industry [and/or] sector on the list of special investment incentive sectors or which is implemented in a region on the list of regions with specially difficult socio-economic conditions shall be exempted from corporate income tax for the first four years from when taxable income arises and shall be entitled to a fifty (50) per cent reduction of the amount of corporate income tax payable for nine subsequent years.

6. The preferential tax rates prescribed in clauses 1, 2 and 3 of article 34 of this Decree and the exemption and reduction of corporate income tax stipulated in this article shall only apply to newly established business establishments which practice independent cost accounting and which pay tax pursuant to a tax declaration.

Business establishments newly established from investment projects which are entitled to exemption and reduction of corporate income tax and which have multiple business operations must account separately for the income from the business operations entitled to exemption and reduction of tax, failing which the income from operations entitled to exemption and reduction of corporate income tax shall be determined as a ratio of turnover from operations entitled to exemption and reduction of tax over total turnover of the business establishment.

Article 36

Currently operating business establishments investing in the construction of new production lines, expansion of their scale, technology renewal, improvement of the ecological environment or improvement of production capacity shall be entitled to exemption from and reduction of corporate income tax in respect of the increased portion of income as follows:

1. They shall be exempted for one year and entitled to a fifty (50) per cent reduction of the tax payable for two subsequent years in the case of an investment project for construction and installation of a new production line not in an investment encouraged industry [and/or] sector [and/or] geographical area as stipulated on the lists of investment incentive sectors,

special incentive sectors, regions with difficult socio-economic conditions or regions with specially difficult socio-economic conditions.

2. They shall be exempted for one year and entitled to a fifty (50) per cent reduction of the tax payable for four subsequent years in the case of an investment project in an industry [and/or] sector on the list of investment incentive sectors or which is implemented in a region on the list of regions with difficult socio-economic conditions.

3. They shall be exempted for two years and entitled to a fifty (50) per cent reduction of the tax payable for three subsequent years in the case of an investment project in an industry [and/or] sector on the list of special investment incentive sectors or which is implemented in a region on the list of regions with specially difficult socio-economic conditions.

4. They shall be exempted for three years and entitled to a fifty (50) per cent reduction of the tax payable for five subsequent years in the case of an investment project in an industry [and/or] sector on the list of investment incentive sectors and which is implemented in a region on the list of regions with difficult socio-economic conditions.

5. They shall be exempted for three years and entitled to a fifty (50) per cent reduction of the tax payable for seven subsequent years in the case of an investment project in an industry [and/or] sector on the list of special investment incentive sectors and which is implemented in a region on the list of regions with difficult socio-economic conditions.

6. They shall be exempted for four years and entitled to a fifty (50) per cent reduction of the tax payable for seven subsequent years in the case of an investment project in an industry [and/or] sector on the list of investment incentive sectors and which is implemented in a region on the list of regions with specially difficult socio-economic conditions; and in the case of an investment project in an industry [and/or] sector on the list of special investment incentive sectors and which is implemented in a region on the list of regions with specially difficult socio-economic conditions. The Ministry of Finance shall provide guidelines on determining the increased portion of income from an investment which is entitled to exemption and reduction of corporate income tax pursuant to this article.

Article 37

Business establishments shall be entitled to exemption from corporate income tax payable on a portion of income in the following circumstances:

1. Income earned from performance of contracts for scientific research and technological development or from information services regarding science and technology.
2. Income earned from the sale of products during their period of test production in accordance with the correct production process, but only for a maximum of six months from the date of commencement of the test production.
3. Income earned from the sale of products made from new technology applied for the first time in Vietnam, but only for a maximum of one year from the date of application of the new technology to produce the products.
4. Income earned from performance of technical service contracts directly serving agricultural production.
5. Income earned from vocational training specially reserved for ethnic minority people.
6. Income earned from production and trading of goods and services by business establishments specially reserved for employees being disabled people.
7. Income earned from vocational training specially reserved for disabled people, for children living in particularly difficult conditions and for persons involved in social evils.

Article 38

If each worker in a co-operative has an annual monthly income in a year below the minimum salary level stipulated by the State for State employees, the co-operative shall be exempt from corporate income tax.

Article 39

If each worker in an individual household producing and trading goods and services has an average monthly income in a year below the minimum salary level stipulated by the State for State employees, such household shall be exempt from corporate income tax.

Article 40

Investors which contribute capital in the form of patents, technical know-how, technological processes or technical services shall be exempt from corporate income tax.

Article 41

Where an enterprise conducts production, construction or transportation

activities and employs ten (10) to one hundred (100) female employees, with the female employees of the enterprise accounting for fifty (50) or more per cent of the total regularly present employees of the enterprise; or where an enterprise employs over one hundred (100) female employees on a regular basis, with the female employees of the enterprise accounting for thirty (30) or more per cent of the total regularly present employees of the enterprise; such enterprise shall be entitled to a reduction of the amount of tax payable equivalent to the amount it pays to female employees.

Article 42

Business establishments which suffer losses after tax finalization with the tax office shall be entitled to carry forward those losses to taxable income of the following years. Losses shall be carried forward for a maximum period of five years.

Article 43

The provisions on tax incentives, tax exemptions and reductions, and carrying forward losses stipulated in articles 34, 35, 36, 37, 38, 40, 41 and 42 of this Decree shall only apply to business establishments which implement the regime for accounting, invoices and source documents and which pay tax in accordance with a declaration. Business establishments shall self-determine their conditions for entitlement to tax incentives and their levels of tax exemption, tax reduction and carry-forward of losses to taxable income and shall provide the tax office with a written notification thereof at the same time as they lodge their annual corporate income tax declaration. The point of time for commencement of application of the tax exemptions and reductions prescribed in this Decree shall be as from the first financial year in which a business establishment has taxable income excluding losses carried forward pursuant to article 42 of this Decree. If a business establishment has a period of under twelve months producing and trading goods and services in its first year of entitlement to tax exemptions or reductions, it shall have the right to enjoy such entitlement in that first year or to register with the tax office for the period of entitlement to commence as from the following year. The period of application of tax exemptions and reductions shall be calculated consecutively from the first financial year in which a business establishment has taxable income excluding losses carried forward. Where business establishments are entitled to corporate income tax exemptions and reductions pursuant to various different sets of circumstances, they may select the most favorable and notify the tax office of their selection.

CHAPTER VI

Rewards and Dealing with Breaches

Article 44

Tax offices and tax officers satisfactorily carrying out their assigned duties and business establishments and other organizations and individuals having achievements in implementation of the Law on Corporate Income Tax shall be rewarded in accordance with regulations of the State.

Article 45

Business establishments, tax officers and other individuals breaching the Law on Corporate Income Tax shall, depending on the nature and seriousness of the breach, be dealt with in accordance with articles 23 and 25 of the Law on Corporate Income Tax and other laws on dealing with administrative offences in the field of taxation.

CHAPTER VII

Organization of Implementation

Article 46

This Decree shall be of full force and effect after fifteen (15) days from the date of publication in the Official Gazette and shall apply to tax periods as from year 2007.

This Decree shall replace Decrees of the Government 164-2003-ND-CP dated 22 December 2003 and 152-2004-ND-CP dated 6 August 2004 providing detailed regulations for implementation of the Law on Corporate Income Tax.

1. Business establishments newly established from investment projects to which business registration certificates or investment certificates have been issued since the date of effectiveness of Decree No. 108-2006-ND-CP dated 22 September 2006 providing detailed regulations for implementation of the Law on Investment shall pay corporate income tax pursuant to this Decree.

2. The following are hereby repealed: the provisions on corporate income tax incentives in article 36.1 of Decree No. 187-2004-ND-CP of the Government dated 16 November 2004 on conversion of State owned companies into shareholding companies. Shareholding companies established as a result of equalization of State owned companies prior to the date of effectiveness of this Decree shall continue to be entitled to the preferential corporate income tax treatment stipulated in article 36.1 of Decree No. 187-2004-ND-CP.

The following are hereby repealed for tax periods as from year 2007: corporate income tax incentives for taxpayers which satisfy the conditions on use of domestic raw materials or on export ratios for textiles and clothing

pursuant to the legal instruments on foreign investment in Vietnam, the legal instruments on encouragement of domestic investment and the legal instruments on investment.

3. Business establishments currently enjoying preferential corporate income tax treatment pursuant to Decree 164-2003-ND-CP dated 22 December 2003, Decree 152-2004-ND-CP dated 6 August 2004 and decisions of the Prime Minister of the Government issued prior to the date of effectiveness of this Decree shall continue to enjoy such preferential treatment for the remaining period. If the amount of the tax rate incentive and the duration of exemption and reduction of corporate income tax is less than the level of preferential treatment stipulated in this Decree, the business establishment shall enjoy the preferential treatment stipulated in this Decree for the remaining period.

4. Business establishments to which investment licenses, business registration certificates or investment certificates were issued before the Socialist Republic of Vietnam officially became a member of the World Trade Organization (11 January 2007), and which have income from business activities (excluding textiles and clothing stipulated in clause 2 of this article) currently entitled to corporate income tax incentives because they satisfy conditions on export ratios pursuant to legal instruments on foreign investment in Vietnam, on encouragement of domestic investment, on corporate income tax and legal instruments on investment, shall continue to enjoy such preferential corporate income tax treatment pursuant to such legal instruments until the end of year 2011.

5. Resolution of any issues on tax, tax finalization, tax exemption and reduction, and administrative offences in the field of corporate income tax which existed prior to the date of effectiveness of this Decree shall be implemented in accordance with the corresponding provisions in legal instruments on corporate income tax, the laws on foreign investment in Vietnam, the laws on promotion of domestic investment, and other legal instruments issued prior to the date of effectiveness of this Decree.

Article 47

The Ministry of Finance shall provide guidelines for implementation of this Decree.

Ministers, heads of ministerial equivalent bodies and Government bodies, and chairmen of provinces and cities under central authority shall be responsible for implementation of this Decree.

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG