

CIRCULAR

Guiding the implementation of import tax and export tax and administration of taxes on imports and exports

Pursuant to June 14, 2005 Law No. 45/2005/QH11 on Import Tax and Export Tax;

Pursuant to June 29, 2001 Customs Law No. 29/2001/QH10 and June 14, 1005 Law No. 42/2005/QH11 Amending and Supplementing a Number of Articles of the Customs Law;

Pursuant to November 29, 2006 Law No. 78/2006/QH11 on Tax Administration;

Pursuant to the Government's Decree No. 149/2005/ND-CP of December 8, 2005, detailing the implementation of the Law on Import Tax and Export Tax;

Pursuant to the Government's Decree No. 154/2005/ND-CP of December 15, 2005, detailing the implementation of a number of articles of the Customs Law regarding customs procedures, inspection and supervision;

Pursuant to the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing the implementation of the Law on Tax Administration;

Pursuant to the Government's Decree No. 66/2002/ND-CP of July 1, 2002, on luggage quotas for persons on entry or exit and gifts and donations eligible for tax exemption;

The Ministry of Finance guides the implementation of import tax and export tax and administration of taxes on imports and exports as follows:

Part A

GENERAL GUIDANCE

I. Taxable objects:

Except for those specified in Section II, Part A of this Circular, goods in the following cases are liable to import tax or export tax.

1. Goods imported or exported through Vietnam's border gates or border, including goods imported or exported through road or waterway border gates, seaport, airport or transnational railway checkpoints, international posts and other places for customs clearance established under decisions of competent state agencies.

2. Goods brought from the domestic market into non-tariff zones and vice versa.
3. Other traded or exchanged goods that are considered imports or exports.

II. Tax-free objects:

Goods in the following cases are not liable to import tax or export tax:

1. Goods transited or transported by border-gate transfer through Vietnam's border gates or border under the customs law.
2. Humanitarian aid goods, non-refundable aid goods provided by foreign governments, United Nations organizations, inter-governmental organizations, international organizations, foreign non-governmental organizations (NGOs), foreign economic organizations or individuals to Vietnam and vice versa, for socio-economic development or other humanitarian purposes, under official documents between the two sides which are approved by competent authorities; humanitarian aid and emergency relief for overcoming consequences of wars, natural disasters or epidemics.
3. Goods exported from non-tariff zones to abroad; goods imported from abroad into non-tariff zones and for use within these zones only; goods brought from one non-tariff zone to another.
4. Exported petroleum liable to the State's royalties tax.

Procedures and dossiers applicable to the above cases comply with the provisions of the Customs Law, documents detailing and guiding the implementation of the Customs Law and other relevant documents.

III. Taxpayers; subjects authorized to pay tax, guaranteeing tax payment or paying tax on others' behalf, below collectively referred to as taxpayers:

1. Taxpayers for imports or exports include:
 - 1.1. Owners of imports or exports.
 - 1.2. Organizations entrusted to import or export.
 - 1.3. Individuals having imports or exports on entry or exit; sending or receiving goods through Vietnam's border gates or border.
2. Subjects authorized to pay tax, guaranteeing tax payment or paying tax on others' behalf include:
 - 2.1. Customs procedure clearance agents, when they are authorized by taxpayers to pay tax for imports or exports.
 - 2.2. Enterprises providing international postal or express mail services, when they pay tax on taxpayers' behalf.

2.3. Credit institutions or other organizations operating under the Law on Credit Institutions, when they provide guarantee for, or pay tax on behalf of, taxpayers under the provisions of Section IV, Part C of this Circular.

IV. Application of treaties:

Where a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions on taxes on imports and exports different from those of this Circular, the provisions of that treaty prevail.

V. Tax on goods purchased, sold or exchanged by border inhabitants:

Goods purchased, sold or exchanged by border inhabitants within certain quotas are exempt from import tax and export tax. Their extra-quota quantities are taxed.

Tax-free quotas of goods purchased, sold or exchanged by border inhabitants comply with current provisions of a Prime Minister decision.

VI. Exchange rates for taxable-value determination, tax payment currency:

1. The exchange rate between Vietnam dong and a foreign currency used for determining the taxable value is the average transaction exchange rate on the inter-bank foreign exchange market announced by the State Bank of Vietnam at the time of tax calculation,
2. published daily on Nhan Dan (People) newspaper and the website of the State Bank of Vietnam. On a day when Nhan Dan newspaper is not published or is published without exchange rate information or no exchange rate information is posted on the website or reaches the border gate, the preceding day's exchange rate already used for tax calculation will be used.

If a taxpayer makes declaration before the date of registration of the customs declaration, the exchange rate for tax calculation is that applied on the date of declaration, provided that date proceeds not more than three days the date of registration of the customs declaration.

For a foreign currency for which the average transaction exchange rate on the inter-bank foreign exchange market has not yet been announced by the State Bank of Vietnam, its exchange rate may be determined on the basis of the US dollar (USD)-Vietnam dong (VND) exchange rate and the exchange rate between the USD and that foreign currency announced by the State Bank of Vietnam at the time of tax calculation.

2. Tax payment currency: Import tax and export tax are paid in Vietnam dong or a freely convertible foreign currency. That foreign currency must be converted into VND at the average transaction exchange rate on the inter-bank foreign exchange market announced by the State Bank of Vietnam at the time of tax calculation.

VII. Tax administration principles:

Administration of taxes on imports and exports must be conducted in a public, transparent and equal manner, ensure lawful rights and benefits of taxpayers, be based on the evaluation of taxpayers' tax law observance, and give priority and create favorable conditions for taxpayers with good tax law observance records.

Taxpayers with good tax law observance records are goods owners that have well observed the customs law and owe no overdue tax amounts or no fines for late tax payment at the time of registration of customs declarations.

Goods owners with good customs law observance records shall comply with the guidance in the Ministry of Finance's Circular guiding customs procedures, customs inspection and supervision.

VIII. Tax dossiers:

1. Tax dossiers referred to in this Circular include dossiers for tax declaration, tax exemption, consideration of tax exemption, reduction or refund, remission of outstanding tax or fine amounts, extension of tax payment time limit or retrospective collection of tax.
2. If copies or Vietnamese translations are required in tax dossiers guided in this Circular, taxpayers or their authorized representatives shall certify true copies or verbatim translations of original papers, append their signatures and seals on those copies or translations, and bear responsibility before law for their legality.
3. Apart from papers to be submitted according to regulations, taxpayers shall enclose with their tax dossiers lists of dossier documents.

Part B

TAX BASES, TAX CALCULATION METHODS

I. Goods subject to the application of ad valorem tax rates:

1. Import tax and export tax bases:

1.1. Quantity of imports or exports:

The quantity of imports or exports used as a tax base is the actually imported or exported quantity of each goods item.

1.2. Taxable value complies with the guidance in the Ministry of Finance's Circular guiding the customs valuation of imports and exports.

1.3. Tax rates:

1.3.1. Export tax rates: Export tax rates for exports are specified for every goods item in the Export Tariff promulgated by the Minister of Finance.

1.3.2. Import tax rates: Import tax rates for imports, which are specified for every goods item, include preferential tax rates, particularly preferential tax rates and ordinary tax rates:

1.3.2.1. Preferential tax rates are applicable to imports originating from countries or groups of countries or territories which grant most-favored-nation treatment in trade relations with Vietnam (these countries, groups of countries and territories are announced by the Ministry of Trade). Preferential tax rates are specified for every goods item in the Preferential Import Tariff promulgated by the Minister of Finance. Taxpayers shall declare the origin of goods by themselves and be held responsible before law for the origin of goods.

1.3.2.2. Particularly preferential tax rates are specified for every goods item in the Minister of Finance's decisions and guided in the Ministry of Finance's Circular No. 45/2007/TT-BTC of May 7, 2007.

1.3.2.3. Ordinary tax rates are applicable to imports originating from countries, groups of countries or territories which do not grant most-favored nation treatment or special import tax preferences to Vietnam. The uniformly applied ordinary tax rate is equal to 150% of the preferential tax rate of each goods item specified in the Preferential Import Tariff.

Ordinary tax rate = Preferential tax rate x 150%

The classification of goods for the purpose of determining different tax rates stated at Point 1.3 of Section I must adhere to the goods classification principles and comply with the Ministry of Finance's Circular guiding classification of imports and exports and other current relevant documents.

1.3.3. Apart from being taxed under Points 1.3.2.1, 1.3.2.2 and 1.3.2.3 of this Section, if goods are excessively imported into Vietnam, are subsidized or dumped, or there is discrimination against Vietnamese exports, anti-dumping tax, anti-subsidy tax, anti-discrimination tax or safeguard tax shall be imposed on these goods in accordance with separate guiding legal documents.

2. Import tax and export tax calculation methods:

On the basis of the actually imported or exported quantity of each goods item stated in the customs declaration, the taxable value and the tax rate of the goods item concerned, the payable tax amount is determined according to the following formula:

$$\text{Payable import tax} = \frac{\text{Actually imported or exported quantity of units of each goods}}{\text{Taxable value of each}} \times \text{Tax rate of the goods}$$

or export tax	item specified in the customs declaration	unit of goods	item concerned
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If the actually imported or exported quantity of goods is different from that indicated in the commercial invoice due to the characteristics of goods in compliance with the delivery conditions and payment conditions stated in the goods sale and purchase contract, the payable import tax or export tax amount shall be determined on the basis of the value actually paid for the imports or exports and the tax rate of the goods item concerned.

Example: In a commercial invoice of petrol-importing enterprise A, the value actually paid for an imported lot of petrol is: 100 liters of petrol x VND 6,000/liter = VND 600,000. However, upon customs clearance, the actually imported volume of petrol is 95 liters in compliance with the delivery and payment conditions stated in the goods sale and purchase contract. In this case, the payable import tax amount shall be determined on the basis of the amount of VND 600,000 actually paid for the imported lot of petrol and the import tax rate of petrol.

II. Goods subject to specific tax:

1. Import tax or export tax bases:

1.1. Quantity of imports or exports:

The quantity of imports or exports used as a tax base is the actually imported or exported quantity of each goods item on the list of goods subject to specific tax.

1.2. Level of specific tax per unit of goods

2. Import tax or export tax calculation method:

The amount of specific tax payable for goods subject to specific tax shall be determined according to the following formula:

$$\begin{array}{ccccc} \text{Payable} & & \text{Actually imported} & & \text{Level} \\ \text{import or export} & = & \text{or exported quantity of} & \times & \text{of specific} \\ \text{tax amount} & & \text{units of each goods item} & & \text{tax per} \\ & & \text{written in the customs} & & \text{unit of} \\ & & \text{declaration} & & \text{goods} \end{array}$$

Part C

TAX DECLARATION, TAX PAYMENT

I. Tax declaration:

1. Principles for tax declaration and payment are defined in Article 4 of the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing the

implementation of the Law on Tax Administration (below referred to as Decree No. 85/2007/ND-CP of May 25, 2007).

2. Tax declaration dossiers:

2.1. Tax declaration dossiers for imports or exports are customs dossiers specified by the customs law.

2.2. In the following specific cases, a tax declaration dossier must additionally contain:

- Written declaration of the value of imports, for imports subject to value declaration: one original;
- Certificate of origin (C/O) of goods eligible for particular preferences, for goods eligible for particularly preferential import tax rates: one original;
- Depending on specific cases of import of machinery, equipment, means of transport not liable to value-added tax (VAT) specified at Point 4, Article 4 of the Government's Decree No. 158/2003/ND-CP of December 10, 2003, detailing the implementation of the VAT Law, one of the following papers is additionally required:
 - + Contract winning notice and contract on sale of goods to enterprises according to bidding results (the contract-winning notice clearly states that payable goods prices are VAT-exclusive), for goods not liable to VAT and imported by the contract winner;
 - + Financial leasing contract, for financial leasing companies importing goods for the financial leasing purpose;
 - + A competent agency's document assigning tasks to organizations to carry out programs, projects or schemes on scientific research and technological development or a scientific and technological contract between the contracting parties, for goods imported for scientific research and technological development purposes;
 - + Certification by the director of the enterprise or the head of the scientific research agency of different kinds of imports to be used as fixed assets, used directly in scientific research and technological development activities or petroleum field exploration and development; or for imports being special-use aircraft parts.

Particularly for aircraft, drill platforms or ships that cannot be manufactured at home and are hired from foreign countries for use in production or business and not liable to VAT, hirers are required to produce only hire contracts signed with foreign parties to customs offices.

These imports that cannot be manufactured at home and need to be imported are determined on the basis of the list of machinery, equipment, special-use means of transport, construction materials, supplies and spare parts that can be manufactured at home promulgated by the Ministry of Planning and Investment.

- For goods eligible for exemption from import tax or export tax, the guidance at Point 2, Section I, Part D of this Circular must be complied with.

3. Time limit and place of submission of tax declaration dossiers; receipt, examination and processing of tax declaration dossiers:

The time limit and place of submission of tax declaration dossiers; receipt, examination and processing of tax declaration dossiers are those applicable to customs dossiers.

4. Supplementation of tax declaration dossiers:

4.1. Cases of supplementation:

Cases of supplementation of tax declaration dossiers for imports and exports are specified in Clause 2, Article 34 of the Law on Tax Administration.

4.2. Supplemented contents:

Contents supplemented to tax declaration dossiers for imports and exports include:

4.2.1. Additional documents and information to serve as a basis for determination of tax calculation factors and bases or identification of tax-free objects or objects eligible for tax exemption, tax reduction or tax refund consideration.

4.2.2. Additional declaration of payable tax amounts, paid tax amounts, outstanding tax amounts to be paid or overpaid tax amounts (if any), late tax payment fine amounts for each goods item and the whole customs declaration; guarantee before law for the accuracy and legality of additionally declared documents and vouchers.

- If the additional declaration leads to an increase in payable tax amounts, taxpayers shall determine by themselves late payment fine amounts on the basis of late paid tax amounts, number of days of late payment and fine levels specified in Article 106 of the Law on Tax Administration. If taxpayers cannot determine by themselves or determine inaccurately late payment fine amounts, customs offices shall determine and notify taxpayers of those amounts.

- If the additional declaration leads to a decrease in payable tax amounts, taxpayers may have the decreased tax amounts offset after they pay tax amounts and fines (if any) according to Article 45 of the Law on Tax Administration. The offsetting is made under the guidance at Point 5, Section IV, Part E of this Circular.

4.3. Written requests for additional declaration must be made according to a set form (not printed herein).

4.4. Processing of supplemented dossiers:

Customs offices that carry out customs procedures for goods lots for which declaration dossiers are supplemented shall receive and examine supplemented dossiers and notify

examination results to taxpayers:

- Within eight working hours for taxpayers that detect by themselves errors in their submitted dossiers and make additional declaration to customs offices before the actual inspection of goods or issuance of a decision on exemption from actual inspection of goods.
- Within five working days from the date of receipt of supplemented dossiers for other cases.

II. Time of tax calculation:

The time for calculating import tax or export tax is the date taxpayers register their customs declarations. The import tax or export tax is calculated on the basis of the tax rate, taxable value and tax calculation exchange rate at the time of tax calculation. Where a taxpayer makes electronic declaration, the time of tax calculation must comply with regulations on e-customs procedures.

For imports or exports for which a single customs declaration form is registered for multiple importations or exportations, import tax or export tax is calculated on the basis of the tax rate, taxable value and tax calculation exchange rate applied on the date of importation or exportation, and the actually imported or exported quantity of each goods item.

III. Tax payment time limit:

1. Export tax payment time limit:

For exports, this time limit is 30 (thirty) days from the date taxpayers register their customs declarations.

2. Import tax payment time limit:

2.1. For imported consumer goods on the list of consumer goods published by the Trade Ministry, tax must be fully paid before receipt of goods, except for the following cases:

2.1.1. If taxpayers have their payable tax amounts guaranteed, the tax payment time limit is the guarantee duration, which, however, must not exceed 30 days from the date taxpayers register their customs declarations.

The guarantee shall comply with the guidance in Section IV of this Part.

2.1.2. If consumer goods on the list of consumer goods published by the Trade Ministry are imported in direct service of security, defense, scientific research or education and training, and are eligible for import tax exemption consideration, the tax payment time limit is 30 days from the date taxpayers register their customs declarations.

If goods, through inspection, are identified to be ineligible for tax exemption consideration, taxpayers shall re-declare and re-calculate tax and late tax payment fine

amounts (if any) within the tax payment time limit for consumer goods specified at Point 2.1 of this Section.

2.2. Import tax payment time limit for taxpayers that with good tax law observance records:

2.2.1. For supplies or raw materials imported for direct use in the production of exports (including also consumer goods on the list of consumer goods published by the Trade Ministry), the tax payment time limit is 275 (two hundred seventy five) days from the date taxpayers register their customs declarations.

2.2.1.1. The condition for application of the 275-day tax payment time limit, apart from tax declaration dossiers stated at Point 2, Section I of this Part, is taxpayers' written registrations of supplies and raw materials imported for direct production of exports;

For some special cases in which the production cycle or the cycle of reservation of supplies and raw materials is longer than 275 days, the tax payment time limit may be longer than 275 days. The extended time limit must not exceed the time limit for goods delivery stated in the contracts for export of products produced from imported raw materials and supplies for which extension of the tax payment time limit is requested or must not exceed the production cycle.

The condition for application of the 275-day-plus tax payment time limit, apart from tax declaration dossiers guided at Point 2, Section I of this Part, is the submission by taxpayers to local customs departments where import customs declarations of raw materials and supplies are registered of the following papers:

- + Written request for application of the 275-day-plus tax payment time limit for each specific case suitable to the actual reservation of raw materials and supplies, clearly stating the reason for the time limit extension, the tax amount for which extension is requested, the requested extension, description of the production process and duration, and commitment on the accuracy of the declared contents: one original;
- + Written registration of imported supplies and raw materials for direct use in production of exports: one original;

Local customs departments where import customs declarations of raw materials and supplies are registered shall receive and examine dossiers and process them as follows:

If dossiers are complete and submitted by eligible subjects, they shall propose a solution and transfer the dossiers to the General Department of Customs for consideration and decision on tax payment time limit extension.

If it is necessary to check and verify the actual production cycle or the cycle of reservation of supplies and raw materials, the General Department of Customs shall assign local Customs Departments to coordinate with tax agencies and concerned

agencies in doing so and reporting to the General Department of Customs before making written official replies. The verification must be recorded in writing, clearly describing the cycle of producing products from raw materials and supplies for which extension of the tax payment time limit is requested.

2.2.1.2. If taxpayers only export their goods or fail to export their goods after the tax payment time limit, they shall be handled as follows:

- For the quantity of raw materials and supplies imported for use in the production of products which, however, are not exported, the tax payment time limit must be recounted to be 30 days from the date of customs declaration registration and a late tax payment fine is imposed from the 31st day to the date of tax payment, and taxpayers shall be administratively sanctioned according to regulations.
- For the quantity of imported raw materials and supplies already used in the production of products which are actually exported after the tax payment time limit, a late tax payment fine is imposed from the date following the expiration of the tax payment time limit to the date of actual exportation or the date of tax payment (if tax is paid before the date of actual exportation).

If a taxpayer is eligible for the application of the tax payment time limit of 275 or more days but fails to export their products or export them after the expiration of the tax payment time limit, the taxpayer shall pay tax (if exporting products after the tax payment time limit, the taxpayer shall pay tax upon the expiration of the applicable tax payment time limit and may get the paid tax amount refunded upon the actual exportation of products) and be fined as specified above.

2.2.2. For goods traded by the mode of temporary export for re-import or temporary import for re-export, the tax payment time limit is 15 (fifteen) days from the date of expiration of the time limit for temporary export for re-import or temporary import for re-export (applicable also to cases of permitted extension).

If a taxpayer eligible for the application of the tax payment limit for goods traded by the mode of temporary export for re-import fails to export its goods or exports its goods after the expiration of the tax payment time limit, he/she/it shall be handled as follows:

- If goods are not exported, the tax payment time limit must be re-counted as for consumer goods on the list of consumer goods published by the Trade Ministry or is 30 days from the date of customs declaration registration as for other goods and the taxpayer shall be fined for late payment or administratively sanctioned according to regulations;
- If goods are exported after the expiration of the tax payment time limit, the late tax payment fine is imposed from the date following the expiration of the tax payment time limit to the date of actual exportation or the date of tax payment (if tax is paid before the date of actual exportation).

2.2.3. For other cases of imports (including those on the list of consumer goods published by the Ministry of Trade but used as supplies or raw materials directly for production) other than the two cases specified at Points 2.2.1 and 2.2.2 above, the tax payment time limit is 30 (thirty) days from the date taxpayers register their customs declarations.

2.3. Import tax payment time limits for taxpayers with poor tax law observance records:

2.3.1. If payable tax amounts are guaranteed by a credit institution or another organization operating under the Law on Credit Institutions, the tax payment time limit is the guarantee duration which must, however, not exceed the time limit specified for each case stated at Point 2.2 of this Section.

The guarantee must comply with the guidance in Section IV of this Part.

2.3.2. If their payable tax amounts are not guaranteed by a credit institution or another organization operating under the Law on Credit Institutions, taxpayers shall pay tax in full before receiving goods.

2.3.3. For goods that are imported in direct service of security, defense, scientific research, education and training and eligible for import tax exemption consideration, the tax payment time limit is 30 days from the date taxpayers register their customs declarations.

If goods are determined, through inspection, to be ineligible for tax exemption consideration, taxpayers shall re-declare and re-count the tax payment time limit as for consumer goods and pay a fine for the late tax payment period counting from the date of receipt of goods to the date of tax payment.

3. Tax payment time limits for imports or exports in other cases:

3.1. For goods imported or exported without goods sale and purchase contracts; goods imported or exported by border inhabitants, tax must be fully paid before goods are exported to abroad or imported into Vietnam.

3.2. If imports or exports still under customs supervision are temporarily seized by a competent state agency for investigation and handling, the tax payment time limit for each kind of goods complies with the provisions of Points 1 and 2 of this Circular and is counted from the date the competent state agency issues a document permitting the release of the temporarily seized goods.

3.3. For imports or exports for which a single customs declaration is registered for multiple importations or exportations, the tax payment time limit for each date of actual importation or exportation of goods complies with the provisions of Points 1 and 2 of this Section.

3.4. If technical standard, quality, quantity or kind appraisal is required to assure accurate

tax calculation (such as determination of the appellation of the goods item and its code according to the import tax tariff, the quality, quantity, technical standards, the condition of imported goods (old or new)...), taxpayers shall still pay tax according to their declarations registered with customs offices; meanwhile, customs offices shall notify taxpayers of the appraisal reasons, and if the appraisal results are different from taxpayers' declarations, thus leading a change in payable tax amounts, taxpayers shall pay tax according to appraisal results.

Appraisal expenses must be paid by customs offices in case appraisal results are different from customs offices' conclusions or by taxpayers in case appraisal results are similar to customs offices' conclusions.

3.5. Tax payment time limit for cases of tax assessment by customs offices:

- For goods after customs clearance: For differences between tax amounts assessed by customs offices and those calculated and declared by taxpayers themselves when carrying out customs procedures, the tax payment time limit is 10 (ten) days from the date the customs offices sign tax assessment documents.
- For goods before customs clearance: For differences between tax amounts assessed by customs offices and those calculated and declared by taxpayers themselves when carrying out customs procedures, the tax payment time limit for each specific case complies with the guidance at Points 1 and 2 of this Section.

IV. Guarantee for payable tax amounts:

1. If a taxpayer has his/her payable tax amount guaranteed by a credit institution or another organization operating under the Law on Credit Institutions, the tax payment time limit is the guarantee duration which must, however, not exceed the tax payment time limit for each case guided in Section III above and the guarantee document of that institution or organization must be submitted to the customs office.

1.1. A guarantee document must be the original and have the following principal contents:

- Name, tax identification number, address, telephone number and facsimile number of the guaranteed taxpayer and the guaranteeing organization;
- Guarantee purpose;
- Guaranteed customs declaration or serial numbers of contracts, invoices and bills of lading, for guarantees provided before customs procedures are carried out;
- Date of guarantee provision and guaranteed amount;
- Commitment of the guaranteeing organization, clearly stating its full responsibility for payment of tax and late tax payment fine for the taxpayer in case the taxpayer fails to

fully pay tax within the tax payment time limit.

- Guarantee duration.

1.2. Upon the expiration of the guarantee duration in case this duration is shorter than the tax payment time limit or upon the expiration of the tax payment time limit in case the guarantee duration is equal to or longer than the tax payment time limit, if the taxpayer fails to fully pay tax, the guaranteeing organization shall pay the tax and late tax payment fine amounts (if any) on behalf of the taxpayer. The late tax payment duration is counted from the date of expiration of the guarantee duration or the date of expiration of the tax payment time limit, as the case may be.

V. Places and modes of tax payment:

1. Taxpayers shall pay tax for imports or exports directly into the State Treasury or through commercial banks, credit institutions and other service organizations defined in Article 44 of the Law on Tax Administration.

2. If taxpayers pay tax in cash but the State Treasury does not organize tax collection in cash at places where customs procedures are carried out, customs offices where customs declarations are registered shall collect tax amounts from taxpayers and remit all collected tax amounts into the State Treasury according to regulations.

3. If at the time of customs declaration registration, taxpayers owe tax and fine amounts to other customs offices and wish to pay those amounts at customs offices where they are carrying out customs procedures, they shall declare and pay tax by themselves to customs offices.

4. The State Treasury, commercial banks, credit institutions and other service organizations shall issue state budget remittance papers made according to a form set by the Ministry of Finance to taxpayers.

Customs offices shall issue tax receipts made according to a form set by the Ministry of Finance to taxpayers in case they collect tax in cash.

5. The State Treasury, commercial banks, credit institutions and other service organizations shall remit tax amounts collected from taxpayers into the state budget within 8 (eight) working hours after the collection. In case of collection of tax in cash in remote and deep-lying areas, islands, areas difficult to access, the time limit for remitting tax amounts into the state budget is 5 (five) working days after those amounts are collected from taxpayers.

VI. Order of paying tax amounts:

1. Taxpayers are obliged to pay tax amounts in the order specified in Article 45 of the Law on Tax Administration.

- The priority order of paying tax amounts is outstanding tax amounts, tax amounts to be retrospectively collected, tax amounts due and fine amounts, in case a taxpayer has all these amounts.

- If a taxpayer owes only one kind of tax amounts, he/she shall pay them in a temporal order, e.g., amounts arising earlier must be paid first, amounts arising later paid subsequently.

2. The State Treasury and customs offices shall exchange information on the collection of tax and fine amounts in order to determine the priority order and collect those amounts in that order, specifically as follows:

2.1. Customs offices shall monitor tax amounts owed by taxpayers, guide taxpayers in paying these amounts in the priority order, and build a database for reference and tax payment by taxpayers in the priority order.

2.2. Based on taxpayers' tax payment receipts, the State Treasury shall account paid tax amounts as state budget revenues and supply receipts and detailed information on paid tax amounts to customs offices for monitoring and management.

2.3. If taxpayers pay tax amounts not in the priority order, customs offices shall make and send orders on adjustment of collected tax amounts to the State Treasury for adjustment, and concurrently notify taxpayers of adjusted tax and fine amounts.

2.4. If taxpayers fail to specify amounts paid for each kind of tax amount in tax payment receipts, customs offices shall account the collected tax amounts in the priority order and concurrently notify them to the State Treasury for accounting of state budget revenues and to taxpayers.

3. When the Ministry of Finance promulgates new regulations on tax payment into customs offices' state budget revenue accounts at the State Treasury, the payment and accounting of tax amounts of taxpayers and the remittance of paid tax amounts into the state budget must comply with these new regulations.

VII. Tax assessment:

1. Cases of tax assessment:

Customs offices shall make tax assessment only for the cases specified in Article 39 of the Law on Tax Administration; Articles 25 and 26 of Decree No. 85/2007/ND-CP of May 25, 2007.

2. Principles for tax assessment:

Tax assessment must adhere to the principles specified in Article 36 of the Law on Tax Administration.

3. Tax assessment bases:

Bases for customs offices to assess tax are taxable quantity and value; origin of goods; import tax, export tax, special consumption tax and value-added tax rates, exchange rate for tax calculation of actually imported or exported goods; prescribed tax calculation methods and other information and databases specified in Article 27 of Decree No. 85/2007/ND-CP of May 25, 2007.

4. Tax assessment procedures and order:

4.1. Tax assessment for imports and exports shall be made in the course of carrying out customs procedures or after the customs clearance of goods, aiming to assess the total payable tax amount of each goods item or customs declaration, or to assess every relevant factor serving as a basis for determination of the total payable tax amount of each goods item or customs declaration.

4.2. Upon tax assessment, customs offices shall give taxpayers written notices on assessed factors and tax assessment results, made according to a set form (not printed herein). For goods which have gone through customs clearance and for which taxpayers have paid declared tax amounts, customs offices shall issue decisions on retrospective collection of tax or decisions on tax refund.

4.3. Taxpayers shall pay tax amounts assessed by customs offices. If disagreeing with tax amounts assessed by customs offices, taxpayers shall still pay those tax amounts but may request the customs offices to give explanations or may lodge complaints or institute legal actions against the tax assessment under the provisions of law on complaints and denunciations.

4.4. If tax amounts assessed by customs offices are higher than those which taxpayers must pay according to regulations, customs offices shall refund overpaid tax amounts and pay compensations for damage under complaint settlement decisions of competent state agencies or judgments or rulings of courts.

Part D

TAX EXEMPTION, CONSIDERATION OF TAX EXEMPTION, TAX REDUCTION

I. Tax exemption:

1. Objects eligible for tax exemption:

Goods imported or exported in the following cases are exempt from import tax or export tax:

1.1. Goods temporarily imported for re-export or temporarily exported for re-import for participation in trade fairs, exhibitions or product displays; machinery, equipment and professional equipment temporarily imported for re-export or temporarily exported for re-import in service of conferences, seminars, scientific research, sport competitions,

cultural performances, art performances, medical examination and treatment... within a period of 90 days or less (excluding machinery and equipment temporarily imported for re-export eligible for consideration of tax refund specified at Point 9, Section I, Part E of this Circular). At the end of trade fairs, exhibitions or product displays or events as provided for by law, temporarily exported goods must be re-imported into Vietnam or temporarily imported goods must be exported abroad.

1.2. Goods being movables brought by Vietnamese or foreign organizations or individuals into Vietnam or abroad within prescribed quotas, including:

1.2.1. Movables brought into Vietnam by foreign organizations or individuals that they are permitted to reside or work in Vietnam at the invitation of competent state agencies or brought abroad upon the end of their residence or working period in Vietnam;

1.2.2. Movables brought by Vietnamese organizations or individuals that are permitted to go abroad on business or working missions and brought back into the country at the end of their business or working period.

1.2.3. Movables brought into Vietnam by overseas Vietnamese families or individuals that are permitted to permanently reside in Vietnam or brought abroad by Vietnamese families or individuals that are permitted to permanently reside in foreign countries; movables brought into Vietnam by foreigners that are permitted to permanently reside in Vietnam or brought abroad by foreigners that are permitted to permanently reside in foreign countries;

Particularly for cars and motorbikes currently used by families or individuals that are permitted to permanently reside in Vietnam, each family is entitled to exemption from import tax on only one car and one motorbike.

1.3. Goods imported or exported by foreign organizations or individuals that enjoy diplomatic privileges and immunities in Vietnam must comply with the provisions of the Ordinance on Privileges and Immunities for Diplomatic Missions, Consulates and Representative Offices of International Organizations, and documents detailing and guiding the implementation of this Ordinance.

1.4. Goods imported for export processing for foreign parties under signed processing contracts are exempt from import tax and products which are exported back to foreign parties are exempt from export tax. Goods exported to abroad for processing for Vietnamese parties under signed processing contracts are exempt from export tax and post-processing products are liable to import tax (excluding the value of supplies and raw materials exported abroad for processing under signed processing contracts; import tax rates are those applicable to imported post-processing products; and the origin of products is the country where processing is undertaken), including:

- Raw materials imported or exported for processing;

- Supplies imported or exported for use in the production or processing (papers, chalk, painting brushes, markers, clothe pins, printing ink, glue brushes, screen-printing frames, erasing crepe, varnishes...), if enterprises can set their consumption norms and wastage ratios;
- Goods imported or exported for use as processing samples;
- Machinery, equipment imported or exported in direct service of processing as agreed in processing contracts. Upon the expiration of the processing contracts, they must be re-exported or re-imported; otherwise, they must be declared for tax payment according to regulations;
- Processed products exported back to foreign parties (if liable to export tax);
- Finished products imported for affixation to processed products or packing together with processed products into complete goods for export are exempt from tax like raw materials or supplies imported for processing, if they satisfy the following conditions: (i) They are expressed in the processing contracts or annexes thereto; (ii) the table of norms of imported raw materials and supplies used for the processing purpose must contain the norms of these finished products; and (iii) they are managed like raw materials or supplies imported for processing.
- Components and spare parts imported for warranty for exported products.

Directors of processing enterprises shall bear responsibility for use norms, consumption norms and wastage ratios (below referred to as consumption norms) of goods imported for the processing purpose. If committing violations, they shall be handled according to law provisions.

Machinery, equipment, raw materials, supplies, processed products paid by foreign parties as processing charges, are, when imported, liable to import tax according to regulations.

1.5. Imported or exported goods within tax-free luggage quotas of people on entry or exit. Tax-free quotas are prescribed as follows:

1.5.1. For people on exit: Except for articles on the list of goods banned from export or subject to conditional export, other goods items belonging to the luggage of people on exit are not subject to any limits.

1.5.2. Tax-free luggage quotas for people on entry (applicable to each person per entry):

Ordinal number	Articles, items	Quota	Note
1	Alcohol, alcoholic drinks:		Under-18 people are not entitled to

	<ul style="list-style-type: none"> - Alcohol of alcoholic strength by volume of 22% or more - Alcohol of alcoholic strength by volume of under 22% - Alcoholic drinks, beer 	1.5 liters 2.0 liters 3.0 liters	this quota
2	Cigarettes: <ul style="list-style-type: none"> - Cigarettes - Cigars - Tobacco shreds 	400 cigarettes 100 cigars 50 grams	Under-18 people are not entitled to this quota
3	Tea, coffee: <ul style="list-style-type: none"> - Tea - Coffee 	5 kg 3 kg	Under-18 people are not entitled to this quota
4	Clothes, personal effects		In quantities appropriate to trip purpose
5	Articles other than those stated above in 1, 2, 3 and 4 (not on the list of goods banned from import or subject to conditional import)		Total value must not exceed VND5,000,000 (five million)

For goods imported in excess of tax-free quota, tax must be paid for excessive quantities. If the total tax amount payable for the excessive portion is under VND 50,000, it is exempt. If their luggage consists of many articles, people on entry may choose articles for tax payment.

1.6. Goods imported for creation of fixed assets of projects eligible for investment promotion specified in List A or B in Appendix I or II to the Government's Decree No. 108/2006/ND-CP of September 22, 2006, detailing and guiding the implementation of a number of articles of the Investment Law, or ODA-funded investment projects, including:

1.6.1. Equipment and machinery.

1.6.2. Special-use means of transported included in technological lines, with certifications

of 24 seats or more and waterway crafts.

1.6.3. Components, details, detached parts, fittings, molds and accessories accompanying equipment, machinery or special-use means of transport specified at Points 6.1 and 6.2 of this Section for synchronous assembly or use.

1.6.4. Raw materials and supplies used for the manufacture of equipment or machinery included in technological lines or components, details, detached parts, fittings, molds and accessories accompanying equipment, machinery or special-use means of transport specified at Points 1.6.1 of this Section for synchronous assembly or use.

1.6.5. Construction supplies which cannot be made at home.

1.7. Plant varieties and livestock breeds permitted to be imported for the execution of investment projects in agriculture, forestry or fisheries.

1.8. Goods imported by BOT enterprises and sub-contractors for the execution of BOT, BTO or BT projects, including:

1.8.1. Equipment and machinery imported for the formation of fixed assets (including equipment, machinery and spare parts used for survey, designing and construction activities).

1.8.2. Special-use means of transport included in technological lines which are imported for the formation of fixed assets, with certifications of the Ministry of Science and Technology; workers-transporting vehicles, including cars of 24 seats or more and waterway crafts.

1.8.3. Components, details, detached parts, fittings, molds and accessories accompanying equipment, machinery or special-use means of transport or vehicles for synchronous assembly mentioned at this Point, including those used for replacement, warranty and maintenance in the course of operation of works.

1.8.4. Raw materials and supplies imported for the execution of BOT, BTO and BT projects, including those used for production or operation of works.

1.9. The exemption from import tax for imported goods specified at Points 1.6, 1.7 and 1.8 of this Section also applies to cases of expansion of projects' operation scale and replacement and renewal of technologies.

1.10. First-time tax exemption is granted to imported equipment on the list in Appendix III to the Government's Decree No. 149/2005/ND-CP of December 8, 2005, for the formation of fixed assets of projects eligible for investment promotion and ODA-funded investment projects on hotels, office buildings, apartments for lease, dwelling houses, trade centers, technical service centers, golf courses, tourist resorts, sport complexes, entertainment and amusement centers, medical examination and treatment, training, cultural, financial, banking, insurance, audit and consultancy service establishments.

1.11. Tax exemption is granted to goods imported in service of oil and gas activities, including:

1.11.1. Equipment, machinery, special-use means of transport necessary for oil and gas activities, with certifications of the Ministry of Science and Technology; workers-transporting vehicles, including cars of 24 seats or more and waterway crafts, including components, details, knocked down parts, fittings, spare parts, molds and accessories accompanying the aforesaid equipment, machinery or special-use means of transport for synchronous assembly or use.

1.11.2. Supplies necessary for oil and gas activities which cannot be made at home.

1.11.3. Medical equipment and first aid medicines for use on drilling platforms and floating structures, with certifications of the Ministry of Health.

1.11.4. Office equipment in service of oil and gas activities.

1.11.5. Other goods temporarily imported for re-export in service of oil and gas activities.

If goods specified at Point 1.11 of this Section are imported by sub-contractors, other organizations or individuals, including direct import, entrusted import, bidding, lease for sublease, etc., for supply to organizations or individuals engaged in prospecting, exploring and exploiting oil and gas under oil and gas service contracts or goods supply contracts, they are also exempt from import tax.

Upon the expiration of goods supply contracts or service provision contracts, sub-contractors or other organizations and individuals shall make settlement with customs offices which have carried out import tax exemption procedures and notify organizations or individuals engaged in prospecting, exploring and exploiting oil and gas of the quantities and values of goods already exempted from import tax. For the quantities of goods exempted from import tax which are not used for oil and gas prospecting, exploration and exploitation, import tax shall be retrospectively collected under the provisions of this Circular.

1.12. Shipbuilding establishments enjoy export tax exemption for exported sea-going ship products and import tax exemption for machinery and equipment imported for the formation of their fixed assets; means of transport included in technological lines, with the Ministry of Science and Technology's certification, for the formation of their fixed assets; raw materials, supplies and semi-finished products used for shipbuilding which cannot yet be made at home.

1.13. Raw materials and supplies in direct service of production of software which cannot be made at home are exempt from import tax.

1.14. Goods imported for direct use in scientific research and technological development

transport which cannot be made at home, technologies which cannot be created at home; scientific documents, books, newspapers and magazines and electronic scientific and technological information sources.

1.15. Raw materials, supplies and components imported for production under projects in the domains eligible for special investment promotion in List A in Appendix I or in geographical areas with exceptionally difficult socio-economic conditions in Appendix II to the Government's Decree No. 108/2006/ND-CP of September 22 2006; or in the domain of manufacture of mechanical, electric and electronic components and accessories, are exempt from import tax for 5 (five) years from the date of production commencement.

1.16. Raw materials, supplies and semi-finished products which cannot be made at home and imported for production under projects in the domains eligible for investment encouragement in List B in Appendix I; semi-finished products which cannot be made at home and imported for production under projects in the domains eligible for special investment promotion in List A in Appendix I or in geographical areas with extremely difficult socio-economic conditions in Appendix II to the Government's Decree No. 108/2006/ND-CP of September 22, 2005, are exempt from import tax for 5 (five) years from the date of production commencement.

1.17. Goods produced, processed, re-processed or assembled in non-tariff zones, when being imported into the domestic market, are exempt from import tax if they are not made of imported raw materials and components. If they are made of imported raw materials and components, import tax must be paid when they are imported into the domestic market: import tax rates are applied to goods items manufactured, processed, re-processed or assembled in non-tariff zones and actually imported according to the current Preferential Import Tariff (they are entitled to particularly preferential tax rates if they fully satisfy the conditions guided in the Ministry of Finance's Circular No. 45/2007/TT-BTC of May 7, 2007). The taxable value determined on the basis of the value of the quantity of imported raw materials or components constituting the goods and the value of the quantity of imported raw materials or components comply with the provisions of the Ministry of Finance's Circular guiding the customs valuation of imports and exports.

1.18. Machinery, equipment and means of transport imported by foreign contractors into Vietnam by the mode of temporary import for re-export in service of construction of works or projects funded with official development assistance (ODA) sources are exempt from import tax and export tax upon re-export. At the end of the period for construction of works or projects, foreign contractors shall re-export these commodities. If wishing to liquidate or sell those commodities in Vietnam instead of re-exporting them, foreign contractors shall obtain permission of a competent state agency and make declaration for payment of import tax thereon according to regulations.

Particularly for cars of less than 24 seats and vehicles designed for passenger-cum-cargo transportation and equivalent to cars of under 24 seats, the mode of temporary import for re-export is not permitted. Foreign contractors wishing to import them into Vietnam for use shall pay import tax according to regulations. After completing the construction of works, foreign contractors shall re-export imported vehicles and are entitled to refund of the paid import tax. The tax refund levels and procedures comply with the provisions of Point 9, Section I, Part E of this Circular.

For enterprises entitled to import tax exemption for goods used for the formation of fixed assets in the cases specified at Point 1 of this Section I, if they do not import goods from abroad but purchase import tax-free goods from other enterprises which are permitted to be sold on the Vietnamese market, they may receive such goods for the formation of fixed assets and are exempt from import tax, while import tax is not retrospectively collected from the enterprises selling those goods.

Organizations or individuals that win contracts for import of goods (winning bids are exclusive of import tax) to be supplied to the subjects entitled to import tax exemption specified at Points 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16 and 1.17, Section I, Part D of this Circular, are also exempt from import tax on those imported goods.

2. Tax exemption dossier:

- Customs dossier according to the customs law;
- Taxpayer's written commitment on use of goods for proper tax-exemption purposes (except for goods specified at Point 1.2 and 1.5 of this Section): one original;
- Contract winning notice enclosed with the goods supply contract (if contract-winning organizations and individuals import or entrust the import of goods), clearly stating the winning bid exclusive of import tax: one photocopy;
- For the cases eligible for tax exemption specified at Points 1.6 thru 1.17 of this Section, there must be also a list of goods exempt from import tax or export tax for the first time, enclosed with a slip for monitoring the reconciliation of goods exempt from import tax or export tax declared by the taxpayer and registered with the customs department of the locality where the enterprise's head office is located or near the enterprise's head office, (if there is no customs department in the locality where the enterprise's head office is located), below referred to as local customs department: one original.
- + Registration of a list of goods exempt from import tax or export tax for the first time must be uniformly carried out as follows:

Before carrying out customs procedures for imports or exports, a taxpayer shall declare by him/her/itself and register the list with the local customs department: two originals.

To identify goods that cannot be manufactured at home, the taxpayer shall base on the list of construction materials; the list of supplies necessary for petroleum activities; the list of raw materials, supplies and semi-finished products for shipbuilding; the list of raw materials and supplies in direct service of production of software products; the list of machinery, equipment, spare parts, supplies, means of transport and technologies for use directly in scientific research and technological development; the list of raw materials, supplies and semi-finished products that can be manufactured at home, promulgated by the Ministry of Planning and Investment. To elaborate a list of goods exempt from import tax or export tax, the taxpayer shall base on the list of plant varieties and livestock breeds permitted for import, promulgated by the Ministry of Agriculture and Rural Development; and documents guiding the detailed classification of production raw materials, supplies and components, issued by the Ministry of Trade.

Particularly for special-use means of transport included in technological chains or necessary for petroleum activities, certification of the Ministry of Science and Technology is required. For medical equipment and first-aid medicines for use in drilling platforms and floating structures, certification of the Ministry of Health is required.

+ A local customs department shall receive, register in its incoming mail book and append a certification seal on two copies of the list of tax-exempt goods made by a taxpayer, keep one copy and return another copy to the taxpayer. At the same time, it shall make a reconciliation monitoring slip in two originals (it shall keep one original and hand to the taxpayer another).

3. Procedures and order for settlement of tax exemption:

3.1. Based on the provisions on subjects eligible for tax exemption and tax exemption dossiers, taxpayers shall declare tax by themselves and submit dossiers to customs offices that carry out customs procedures.

3.2. Customs offices that carry out customs procedures shall check and compare taxpayers' declarations with current regulations so as to grant tax exemption according to regulations.

3.2.1. If dossiers are incomplete, customs offices shall, within 3 (three) working days from the date of dossier receipt, notify taxpayers thereof for completion of dossiers, or state reasons for taxpayers' ineligibility for tax exemption.

3.2.2. For dossiers of taxpayers ineligible for tax exemption, customs offices that carry out customs procedures shall calculate tax, notify reasons and payable tax amounts to taxpayers and impose sanctions according to current regulations.

3.2.3. For dossiers of eligible taxpayers that are complete and accurate, tax exemption shall be given within 3 (three) working days from the date of dossier receipt, and customs

kept by taxpayers: “Goods are exempt from tax according to Point... Section... Part... of the Ministry of Finance’s Circular No... dated... (month... year...)”

- Particularly for goods exempt from import tax or export tax in the cases in which the list of goods exempt from import tax or export tax must be registered for the first time, customs offices shall also carry out the following activities:

- + Checking the registered list and the reconciliation monitoring slip produced by the taxpayer;

- + Recording in writing and signing for certification of the quantity and value of actually imported goods in the reconciliation monitoring slip, and keeping one photocopy in the import dossier;

- + When the quantity of imports or exports stated in the list is fully reconciled, the district-level Customs Sub-Department that carries out final procedures shall give certification in the reconciliation monitoring slip, and the taxpayer shall send one photocopy of the slip to the customs department where the first registration is made when all goods stated in the registered list are imported.

3.2.4. The tax exemption, tax administration and finalization for goods imported or exported under processing contracts comply with the Ministry of Finance’s separate guiding documents.

II. Tax exemption consideration:

1. Objects eligible for tax exemption consideration:

Goods imported or exported in the following cases are considered for tax exemption:

1.1. Imports that are special-use goods for direct use in security and defense on specific lists approved by managing ministries and registered with and agreed upon by the Ministry of Finance from the beginning of the year (by March 31 at the latest the managing ministries shall register import plans).

1.2. Imports that are exclusively used in scientific research (except for the case specified at Point 1.14, Section I, Part D of this Circular) and on specific lists approved by specialized managing ministries.

1.3. Imports that are exclusively used in education and training and on a specific list approved by a specialized managing ministry.

1.4. Goods that are gifts, presents or sample goods:

Goods that are gifts, presents or sample goods and entitled to consideration of import tax or export tax exemption are goods permitted for import or export, and falling into the following specific cases and subject to the following tax exemption consideration limits:

1.4.1. For exports:

1.4.1.1. Organizations' or individuals' goods that are permitted for export from Vietnam as gifts and presents to organizations or individuals in foreign countries.

1.4.1.2. Foreign organizations' or individuals' goods that are given as gifts or presents by Vietnamese organizations or individuals when these foreign organizations or individuals enter Vietnam for working, tourism or visit to their relatives, and are permitted for export.

1.4.1.3. Vietnamese organizations' or individuals' goods permitted for export for display at fairs or exhibitions or for advertisement abroad, then given as gifts or presents to foreign organizations or individuals.

1.4.1.4. For organizations or individuals sent abroad by the State for working missions or study or Vietnamese people traveling abroad as tourists, apart from their personal luggage quotas upon exit, if carrying goods for use as gifts or presents to foreign organizations or individuals, they may also enjoy the quotas for export tax exemption consideration for those gifts and presents.

1.4.1.5. Sample goods that are sent by Vietnamese organizations or individuals to foreign organizations or individuals.

Goods that are gifts, presents or sample goods must not exceed VND 30 (thirty) million in values, for organizations eligible for export tax exemption consideration.

Goods that are gifts, presents or sample goods and valued at VND 1 (one) million at most for individuals or valued at over VND 1 (one) million but liable to a total tax amount of less than VND 50,000 are exempt from export tax (not required to go through procedures for export tax exemption consideration).

1.4.2. For imports:

1.4.2.1. Goods that are gifts or presents valued at VND 30 (thirty) million at most given by overseas organizations or individuals to Vietnamese organizations are eligible for tax exemption consideration.

Vietnamese organizations include state agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations or people's armed forces units.

1.4.2.2. Goods that are gifts or presents given by overseas organizations or individuals to Vietnamese individuals which are valued at VND 1 (one) million at most or over VND one million but liable to the total tax amount of less than VND 50,000 are exempt from import tax (not required to go through import tax exemption consideration procedures).

For goods that are addressed as gifts to individuals but actually presented to organizations (with written certifications thereof made by those organizations) and are managed and

used by those organizations, the applicable tax exemption level is the same as that set for gifts or presents given by overseas organizations or individuals to Vietnamese organizations.

1.4.2.3. For foreign organizations' or individuals' goods that are permitted for temporary import into Vietnam for participation in trade fairs or exhibitions or are imported into Vietnam for use as sample goods or for advertisement but then, instead of being re-exported, are given as gifts, presents or souvenirs to Vietnamese organizations or individuals, they may be considered for tax exemption if they are given as gifts or souvenirs to trade fair or exhibition visitors, each valued at less than VND 50,000 (fifty thousand), and the total value of the imported goods lots for use as gifts or presents does not exceed VND 10 (ten) million.

1.4.2.4. Foreign organizations' or individuals' goods which are permitted for import into Vietnam as prizes in sport competitions, cultural or art contests... are considered for tax exemption if each prize does not exceed VND 2 (two) million (for individuals) or VND 30 (thirty) million (for organizations) and the total value of the imported goods lots for use as prizes does not exceed the total value of prizes in kind.

1.4.2.5. Individuals on entry into Vietnam are, apart from the personal luggage quota, also exempt from import tax on goods carried along for use as gifts, presents or souvenirs valued at VND 1 (one) million at most or over VND one million but liable to the total tax amount of less than VND 50,000 (not required to go through import tax exemption consideration procedures).

1.4.2.6. For goods of subjects entitled to temporary tax exemption which are not re-exported but temporarily imported on the spot (if goods temporarily imported on the spot are goods subject to conditional import at the time of temporary import on the spot, permission of a competent state agency is required) for use as gifts or presents to Vietnamese organizations or individuals, they are exempt from import tax if they are given to organizations and valued at VND 30 (thirty) million at most and if they are given to individuals and valued at VND 1 (one) million at most or over VND one million but liable to the total tax amount of less than VND 50,000 (not required to go through import tax exemption consideration procedures).

1.4.2.7. Sample goods sent from overseas by organizations or individuals to Vietnamese organizations or individuals and vice versa are subject to tax exemption consideration quotas applicable to gifts or presents, which, if given to organizations, are valued at VND 30 (thirty) million at most or, if given to individuals, are valued at VND 1 (one) million at most or at over VND 1 (one) million but liable to the total tax amount of less than VND 50,000.

1.4.3. For goods given as gifts or presents valued in excess of the tax exemption

except for the following cases in which tax exemption is considered for the whole value of goods lots:

1.4.3.1. Gift or present recipients that are administrative or non-business units, social organizations operating with state budget funds are considered for tax exemption on a case-by-case basis if they are permitted by their superior managing agencies to receive such gifts or presents for use. In this case, the recipients shall account as an increase of budget allocation the import tax and the value of the gifts or presents, and manage and use them strictly according to current regulations on management of agencies' properties procured with budget allocations.

1.4.3.2. Goods that are gifts or presents are used for humanitarian, charity or scientific research purpose.

1.4.3.3. Curative medicines that are sent by overseas Vietnamese to their relatives in Vietnam who are members of families with meritorious services to the revolution, war invalids or war fallen heroes or are supportless aged persons, with certifications of local administrations.

1.5. For goods imported for sale at duty-free shops: Customs offices shall manage them according to the regime of management and supervision of goods imported for duty-free sale under the Regulation on duty-free shops promulgated together with the Prime Minister's decision currently in force.

For sales promotion goods or goods for trial use supplied free of charge by foreign parties to duty-free shops for sale together with other goods at those shops, those sales promotion goods or goods for trial use are not liable to import tax. Sales promotion goods and goods for trial use are all subject to supervision and management by customs offices like goods imported for sale at duty-free shops.

2. Tax exemption consideration dossiers:

2.1. Customs dossier defined by the customs law: one copy.

2.2. Other papers required on a case-by-case basis:

- Written request for tax exemption consideration, made by the organization or individual that uses imports or exports, clearly stating the kind of goods, value, tax amount, reason for tax exemption consideration and customs declaration. If different kinds of goods are declared in different customs declarations, a list of these kinds of goods and customs declarations related to tax exemption consideration is required together with commitment on accurate declaration, supply of proper dossiers and use of goods for proper tax exemption purpose: one original.

- Written request for tax exemption consideration, made by the managing ministry and a specific list of quantities and kinds of imports for exclusive use for security or defense purposes approved by the managing ministry, enclosed with a reconciliation monitoring slip approved by the Ministry of Finance

from the beginning of the year (by March 31 at the latest, the managing ministry shall register import plans) for imports to be exclusively used in security or defense: two originals.

- Import contract or entrusted import contract (for goods in entrusted importation) or contract winning notice enclosed with the goods provision contract (for goods imported through bidding), clearly stating the import price exclusive of import tax: one copy.

- Decision on approval of a scientific research scheme and a list of goods to be imported for implementation of the scheme issued by the managing ministry for imports to be exclusively used in scientific research. For goods subject to multiple importations, a duty-free imports reconciliation monitoring slip is required: two originals.

- Decision on approval of a project on investment in equipment and a list of equipment under the project issued by the managing ministry, for imports to be exclusively used in education and training. For goods subject to multiple importations, a duty-free imports reconciliation monitoring slip is required: two originals.

- Treaty to which Vietnam is a contracting party in case of request for tax exemption consideration under a treaty: one copy.

- Notice or decision or agreement on donation of goods; written notice or agreement on sending of sample goods: one copy.

For some cases in which goods are gifts, presents or sample goods, the tax exemption consideration dossier must additionally contain the following:

- + Commune or ward People's Committee's written certification of family with meritorious services to the revolution, war invalid or fallen hero, supportless aged person (for the case specified at Point 1.4.3.3): one original.

- + Letter of authorization issued by the organization or individual that is given a gift or present or receives a sample goods to the transport enterprise to transport the goods and carry out customs procedures, for goods transported and put through customs procedures by enterprises engaged in forwarding activities: one copy.

- + A competent state agency's written permission for non-re-export of goods that were temporarily imported for re-export to be given as gifts or presents to Vietnamese organizations or individuals (in case permission is required); invoice or ex-warehousing bill of the quantity of donated goods, and written record of goods handover between the donor and donee, applicable to goods being gifts or presents which were given tax exemption for temporary import for re-export but are not re-exported: one copy.

- + A competent state agency's written permission for duty-free shop business, for goods imported for sale at duty-free shops: one copy.

- Other documents related to the determination of the tax amount eligible for exemption consideration: one copy.

3. Tax exemption consideration procedures and order:

3.1. Submission and receipt of tax exemption consideration dossiers:

- Taxpayers shall determine tax amounts to be considered for tax exemption if they are eligible for tax exemption consideration; and submit their dossiers to customs offices competent to consider tax exemption;
- For tax exemption consideration dossiers submitted directly at customs offices, customs officers shall receive and append a seal of dossier receipt, record the time of dossier receipt and the number of documents in the dossiers;
- For tax exemption consideration dossiers submitted by post, customs officers shall append a seal showing the date of dossier receipt and record them in the incoming mail books of customs offices;
- For tax exemption consideration dossiers submitted electronically, customs offices shall receive, check and accept those dossiers through the electronic data processing system.

3.2. Processing of tax exemption consideration dossiers:

Customs offices shall examine tax exemption consideration dossiers of taxpayers (checking the completeness, accuracy and uniformity of dossiers, and identifying whether taxpayers are eligible for tax exemption consideration) and carry out the following activities:

3.2.1. Within 3 (three) working days from the date of dossier receipt, notifying the dossier incompleteness to taxpayers for completion of their dossiers.

3.2.2. Within 30 (thirty) working days from the date of dossier receipt, notifying taxpayers of reasons for their ineligibility for tax exemption consideration, payable tax and fine amounts (if any) according to current regulations, or issuing decisions on tax exemption for eligible taxpayers whose dossiers are complete according to regulations.

In case of necessity to conduct actual inspection to obtain grounds for processing dossiers, customs offices shall issue tax exemption decisions within 60 (sixty) days from the date of receipt of complete dossiers.

3.3. Based on tax exemption consideration decisions, customs offices where customs declarations are registered shall liquidate tax amounts considered for exemption, clearly writing in original customs declarations kept by them and taxpayers “goods are considered for tax exemption under decision No.... dated (month...year...) issued by...”

4. Competence to consider tax exemption:

4.1. The Ministry of Finance shall consider tax exemption for the cases specified at Points 1.4.3.1 and 1.4.3.2.

4.2. The General Department of Customs shall consider tax exemption for the cases specified at Points 1.1, 1.2 and 1.3 and cases in which goods are imported or exported under treaties.

4.3. Local customs departments shall consider tax exemption for other cases.

III. Tax reduction consideration:

1. Objects eligible for tax reduction consideration:

If imports or exports that are still under the supervision by customs offices are damaged or lost and appraised and so certified by competent agencies or organizations, they may be considered for tax exemption in proportion to their actual loss ratio.

2. Tax reduction consideration dossiers:

- The taxpayer's written request for tax reduction consideration, clearly stating the kind, quantity and value of goods, tax amount, reason for tax reduction consideration, and customs declaration. If different kinds of goods are declared in different customs declarations, a list of those goods and their customs declarations is required together with commitments on accurate declaration and supply of proper dossiers of request for tax reduction: one original.

- Customs dossier required by the customs law: one copy.

- Appraisal certificate of an appraisal service provider of the lost quantity or the actual loss rate of imports or exports: one original.

- Insurance contract: one copy.

- Insurance policy/written agreement on indemnity by the insurer: one copy.

3. The order and procedures for tax reduction consideration are the same as those for tax exemption consideration.

4. Competence for tax reduction consideration: Local customs departments where customs declarations are registered are competent to consider tax reduction.

Part E

TAX REFUND

I. Cases in which tax refund is considered:

1. Imports to be re-exported for which import tax has been paid and which are still left in border-gate warehouses or storing yards under customs supervision.

2. Goods for which import tax or export tax has been paid but which are not imported or exported.

3. Goods for which import tax or export tax has been paid but which are imported or exported in smaller quantities.

4. Goods imported for delivery or sale to foreign countries through agents in Vietnam; goods imported for sale on board means of transport of foreign firms operating along international routes through Vietnamese ports and Vietnamese means of transport operating along international routes according to the Government's regulations.

5. Imports for which import tax has been paid and which are used for the production of exports are eligible for tax refund in proportion to the ratio of actually exported products, which are specifically determined as follows:

5.1. Raw materials and supplies eligible for import tax refund, including:

- Imported raw materials and supplies (including assembly components, semi-finished products, packaging materials) directly constituting export products;
- Raw materials and supplies directly used in the production of goods for export but neither directly transformed into goods nor constituting products, such as paper, chalk, painting brushes, markers, clothes pins, printing ink, glue brushes, glue brooms, screen-printing frames, erasing crepe, varnishes,...
- Finished products imported by enterprises for attachment to or packaging together with products into complete goods items for export;
- Components and spare parts imported for use as warranty goods for exported products.

5.2. Cases of tax refund consideration, including:

5.2.1. Enterprises that import raw materials and supplies for the production of exports or organizing the hiring of domestic processing (including also the hiring of processing in non-tariff zones) or of processing overseas, or conduct joint production of exports and receive products for export.

5.2.2. Enterprises that import raw materials and supplies for the production of goods for domestic consumption but later find export outlets (within the maximum duration of 2 years from the date of registration of customs declarations for imported raw materials and supplies), then use those raw materials and supplies for the production of products for export, and have actually exported those products abroad.

5.2.3. For raw materials and supplies (excluding finished products) imported for the performance of processing contracts (not supplied by foreign processes but imported by the processing enterprises themselves for the performance of processing contracts signed with foreign customers), after products are actually exported, they are entitled to import tax refund like those imported for the production of exports.

5.2.4. Enterprises that import raw materials and supplies for the production of products

and later use these products for the processing of goods for export under processing contracts with foreign parties.

5.2.5. Enterprises that import raw materials and supplies for the production of products for sale to other enterprises for direct production or processing of exports, after the exports-manufacturing or -processing enterprises have exported such products, are entitled to refund of import tax amounts corresponding to the quantities of raw materials and supplies used by other enterprises for production of products which have been actually exported.

If enterprises import raw materials and supplies for the production of products and sell these products to other enterprises for direct export in complete component sets, they are entitled to refund of import tax amounts corresponding to the percentage of exported products (component sets), provided that: (i) products manufactured from the imported raw materials and supplies constitute a detail or component of exported component sets; (ii) the enterprises buy products for combination with details or components produced by themselves in order to make exported component sets.

5.2.6. Enterprises that import raw materials and supplies for the production of products and sell these products to other enterprises for direct export. After the enterprises that buy products of the manufacturing enterprises have exported the products, the enterprises importing raw materials and supplies will be refunded import tax amounts in proportion to the quantity of products actually exported.

The tax refund cases specified at Points 5.2.5 and 5.2.6 above may be considered for refund of import tax only on raw materials and supplies imported for production of exports if the following conditions are fully satisfied:

- The goods-selling enterprise or the goods-buying enterprise has paid value-added tax by credit method; the enterprises have been registered and granted tax identification numbers; sale invoices are issued for goods traded between the two units.
- Via-bank payment is made for exported goods under regulations of the Vietnam State Bank.
- The period from the time of importation of raw materials and supplies (the date of registration of imports customs declarations) to the time of actual exportation of products is one year (365 days) at most.

5.2.7. Enterprises that import raw materials and supplies for the production of goods for sale to foreign traders but later deliver goods to other enterprises in Vietnam under designation by those foreign traders for use as raw materials for further production or processing of goods for export.

5.3. If raw materials and supplies are imported for the production of exports, if products

required to be paid on raw materials and supplies corresponding to the actually exported quantity of goods.

5.4. Consumption norms of imported raw material and supplies for tax refund consideration:

5.4.1. Enterprises shall themselves elaborate, declare and register consumption norms of imported raw materials and supplies for the production of exports with customs offices of localities where raw materials and supplies are imported before exporting products. If due to the change of models, patterns or kinds of goods for export in the course of production, new kinds of raw materials or supplies need to be imported for the production of exports at variance with the norms already declared and registered with customs offices, within 15 (fifteen) days after the causes of such change arise, the enterprises shall themselves re-declare and re-register the consumption norms of raw materials and supplies to be imported for the production of exports with customs offices before carrying out procedures for export of their products.

Enterprises themselves shall elaborate consumption norms of raw materials and supplies used for the production of exports and register them with customs offices that carry out import procedures, and their directors are accountable for the legal bases and accuracy of those norms. If the registered norms are different from the actual ones, enterprises shall promptly report them to the customs offices with which they have registered their norms for use as a basis for tax refund based on the actual norms for actually exported products.

For enterprises that have imported raw materials and supplies for the production of products for domestic consumption then find export outlets for their products, they shall elaborate actual norms and send them to customs offices before carrying out tax refund procedures. Their directors are accountable for these norms.

If doubting the consumption norms of raw materials or supplies for the production of exports, the tax refund-considering agencies may ask for appraisal by agencies specialized in managing these goods or coordinate with local tax offices (where the enterprises declare their tax identification numbers) in conducting inspection at the enterprises, serving as a basis for considering and approving import tax refund for the enterprises. The General Department of Customs shall direct local customs offices to coordinate with local tax offices in conducting examination of actual consumption norms of raw materials and supplies for the production of exports related to import tax refund.

5.4.2. If one kind of raw material or supply is imported for the production of two or more kinds of products (for example: wheat is imported for the production of wheat flour, but two products, wheat flour and wheat bran, are obtained; condensate is imported for oil refinery but petrol and diesel oil are obtained,...) but only products of one kind are exported, enterprises shall declare it to customs offices. The refundable import tax

formula:

$$\frac{\text{Refundable import tax amount}}{\text{(corresponding to actually exported products)}} = \frac{\text{Export product value}}{\text{Total value of obtained products}} \times \frac{\text{Total import on imported raw materials supplies}}$$

- The export product value is the actually exported quantity of products multiplied by (x) the taxable price of exports (FOB);

- The total value of obtained products is the aggregate of the value of exported products and the sale turnover of products (including discarded materials, recovered defective products, exclusive of output value-added tax) for domestic consumption.

6. For goods temporarily imported for re-export or temporarily exported for re-import by the mode of trading in goods temporarily imported for re-export or temporarily exported for re-import and goods imported under entrustment for foreign parties and then re-exported (except for the case in which the tax has been exempted under Point 1.1, Section I, Part D of this Circular), they may be considered for refund of import tax or export tax and are not liable to import tax upon re-import or not liable to export tax upon re-export.

For goods temporarily imported for re-export or goods temporarily exported for re-import, if they have been actually re-exported or re-imported within the permitted tax payment time limit, the import or export tax amount corresponding to the actually re-exported or re-imported quantity of goods is not required to be paid.

7. Goods that have been exported but then are re-imported into Vietnam are considered for refund of the paid export tax and exemption from import tax.

7.1. Conditions for consideration of refund of the paid export tax and exemption from import tax:

- Goods are actually re-imported into Vietnam within 365 days after the date of actual exportation;
- Goods have not gone through production, processing, repair or use overseas;
- Goods re-imported into Vietnam must go through customs procedures at places where export procedures were carried out for them.

7.2. If exported goods which are forced to be re-imported into Vietnam are still in the permitted export tax payment time limit, export tax is not required to be paid for the actually re-imported quantity of goods.

7.3. If exported goods which have been processed by Vietnamese enterprises for foreign

parties and enjoy exemption from import tax on raw materials and supplies are re-imported into Vietnam for repair, re-processing before they are re-exported to foreign parties, customs offices that manage and handle the original processing contracts shall continue monitoring and management of the re-processed goods until they are fully exported and the declarations of imported goods for re-processing are liquidated. If the re-processed goods are not exported, their taxation is as follows:

- If they are domestically consumed, tax payment declaration must be made as for processed goods exported or imported on the spot;
- If they are allowed for destruction in Vietnam and the destruction has been carried out under customs supervision, they are exempt from tax like discarded processing materials and defective products which are destroyed.

7.4. If exports made of imported raw materials and supplies or goods temporarily imported for re-export (eligible for tax refund upon export) are re-imported into Vietnam, enterprises shall retroactively pay the first-time import tax amounts already refunded or are not entitled to refund of the tax amounts (if not yet refunded) corresponding to the quantity of goods re-imported into Vietnam. When actually exporting the goods re-imported into Vietnam, enterprises shall declare and pay export tax thereon (if they are liable to export tax) and are entitled to import tax refund under the provisions of Points 4, 5 and 6, Section I, Part E of this Circular.

8. For imported goods which must be re-exported to foreign owners or re-exported to a third country, refund of the paid import tax corresponding to the actually re-exported quantity of goods and exemption from export tax will be considered:

8.1. Conditions for consideration for refund of the paid import tax and exemption from export tax:

- Goods are re-exported within one year (rounded to 365 days) after they were actually imported;
- Goods have not yet gone through production, processing, repair or use in Vietnam;
- Goods re-exported must go through customs procedures at places where import procedures were carried out for them.

If imported goods are inconsistent with the contracts, a notice on the goods appraisal results of an agency or organization having the function and competence to appraise imports and exports is required. For the quantities of goods sent by foreign parties for replacement of the re-exported goods quantities, enterprises shall declare and pay import tax according to regulations.

8.2. If to be- re-exported goods are still within the permitted import tax payment time limit, import tax is not required to be paid for the re-exported quantity of goods.

9. For machinery, equipment, instruments and means of transport of organizations or individuals permitted to temporarily import them for re-export (including those borrowed for re-export) for the execution of investment projects, construction of works, installation of works in service of production, these organizations or individuals shall declare and pay import tax according to regulations when importing them and are refunded the paid import tax when exporting them. To be-refunded import tax amounts are determined on the basis of the residual use value of the re-exported machinery, equipment, instruments or means of transport and the duration they have been used and kept in Vietnam; if their use value has been fully depreciated, import tax is not refunded. Specifically:

9.1. For brand-new imports (unused imports):

Duration of being used and kept in Vietnam	Import tax to be refunded
6 months or less	90% of the paid import tax amount
Between over 6 months and 1 year	80% of the paid import tax amount
Between over 1 year and 2 years	70% of the paid import tax amount
Between over 2 years and 3 years	60% of the paid import tax amount
Between over 3 years and 5 years	50% of the paid import tax amount
Between over 5 years and 7 years	40% of the paid import tax amount
Between over 7 years and 9 years	30% of the paid import tax amount
Between over 9 years and 10 years	15% of the paid import tax amount
Over 10 years	No refund

9.2. For used imports:

Duration of being used and kept in Vietnam	Import tax to be refunded
6 months or less	60% of the paid import tax amount
Between over 6 months and 1 year	50% of the paid import tax amount
Between over 1 year and 2 years	40% of the paid import tax amount
Between over 2 years and 3 years	35% of the paid import tax amount
Between over 3 years and 5 years	30% of the paid import tax amount

Over 5 years	No refund
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If organizations or individuals that import machinery, equipment, instruments or means of transport cannot re-export them within the re-export time limit and are permitted by the Trade Ministry (or a competent state agency) to transfer them to others in Vietnam for continued management and use, the transfer is not considered export and import tax is not refunded and the transferees or buyers are not required to pay import tax. After they are actually re-exported, the original importers are refunded the paid import tax according to the provisions of this Point.

10. For imports or exports sent by organizations or individuals overseas to organizations or individuals in Vietnam through international postal services or express mail services and vice versa, service-providing enterprises that have paid tax thereon are refunded the paid tax amounts in case the goods cannot be delivered to recipients and must be re-exported, re-imported, confiscated or destroyed under Joint Circular No. 01/2004/TTLT-BBCVT-BTC of May 25, 2004, of the Post and Telematics Ministry and the Finance Ministry guiding the responsibilities and coordinative relationships in customs inspection and supervision of mails and postal items and parcels imported or exported through postal services or mail delivery services.

11. For errors made in tax declaration, calculation or payment (by taxpayers or customs offices), the overpaid tax amount is refunded if those errors are made within 365 days preceding the date they are detected. The date of detection of an error is the date of signing of a written certification thereof between the taxpayer and the customs office.

12. For organizations or individuals with imports or exports in violation of regulations in the customs domain (below called goods in violation for short), if they have paid import tax or export tax and other taxes (if any) and have their goods currently under customs supervision and management confiscated under decisions of competent state agencies, the paid import tax or export tax amount and other taxes (if any) shall be refunded to them.

13. For imports or exports for which tax has been paid but which are then eligible for tax exemption under decisions of competent state agencies, the paid tax shall be refunded.

14. For imports or exports currently under customs supervision and management for which customs declarations have been made and which are detected to be in violation by customs offices through inspection before customs clearance and, therefore, must be destroyed and have been destroyed, decisions on non-collection of import tax or export tax thereon (if any) shall be issued. Acts of importing or exporting goods in contravention of regulations shall be sanctioned and these goods shall be destroyed under current legal provisions. Customs offices where customs declarations of imports or exports are made shall preserve dossiers of the destroyed goods and coordinate with relevant functional agencies in supervising the destruction strictly according to current legal provisions.

15. For cases eligible for tax refund guided in this Section, if the refundable tax amount is less than VND 50,000, customs offices will not refund it.

II. Tax refund dossiers:

When requesting consideration of tax refund, taxpayers eligible for tax refund shall submit to customs offices the following papers:

1. For the case specified at Point 1, Section I of this Part, a dossier comprises:

a/ A written request for consideration of refund of the paid tax amount, clearly stating the kind of goods, tax amount, reason for requesting tax refund, and customs declaration. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the tax refund request is required together with commitments on accurate declaration and supply of proper documents for tax refund consideration (one original);

b/ The customs declaration of imports, with the calculated tax amount (one copy);

c/ The customs declaration of exports having gone through customs procedures, containing the customs office's certification that the goods specified in which imports customs declaration and still left in a border-gate warehouse or storing yard under customs supervision have been actually exported (one copy);

d/ The tax payment document (one copy and the original for comparison).

2. For the case specified at Point 2, Section I of this Part, a dossier comprises:

a/ Papers stated at Items a and d, Point 1 of this Section;

b/ The customs declaration of imports or exports, containing the customs certification that the goods have not been actually imported or exported (one copy).

3. For the case specified at Point 3, Section I of this Part, a dossier comprises:

a/ Papers stated at Items a and d, Point 1 of this Section;

b/ The customs declaration of imports or exports having gone through customs procedures (one copy);

c/ The commercial invoice under the goods purchase and sale contract (one copy).

4. For the case specified at Point 4, Section I of this Part where import tax has been paid and goods have been delivered or sold to foreign parties, a dossier comprises:

a/ Papers stated at Items a and d, Point 1 of this Section;

b/ An official letter of the Ministry of Trade permitting the import (for goods items required to have import permits of the Ministry of Trade) (one original);

- c/ The customs declaration of imports having gone through customs procedures (one copy);
- d/ The goods sale invoice (one copy);
- e/ The customs declaration of exports having gone through customs procedures (one copy);
- f/ The goods delivery or sale agency contract and the goods supply contract or agreement (one copy);
- g/ The via-bank payment document for the exports (one photocopy and the original for comparison); a list of via-bank payment documents for a goods lot for which payment is made in installments (one original).

4.1. Particularly for imported drinks to be served on board international flights, a dossier comprises:

- a/ Papers stated at Items a, b and c, Point 4 above;
- b/ The bill on the delivery and receipt of drinks on board international flights, with the certification of the airport customs office (one copy).

4.2. For enterprises exclusively importing certain goods (for example, petrol and oil) and permitted to sell these goods to ocean shipping enterprises for resale to foreign sea-going ships, after the goods are sold to sea-going ships, importing enterprises will be refunded the paid import tax, a dossier comprises:

- a/ Documents and papers stated at Point 4 above;
- b/ The contract or invoice on the sale of goods to an ocean shipping enterprise (one copy);
- c/ The ocean shipping enterprise's written declaration of the quantity and value of goods purchased from the enterprise exclusively importing certain goods and actually supplied to foreign sea-going ships; a list of payment documents of foreign ocean shipping companies. Directors of enterprises shall take responsibility before law for these declarations and lists (one original).

5. For the case specified at Point 5.2.1, Section I of this Part, a dossier comprises:

- a/ A written request for refund of import tax on raw materials and supplies imported for the production of exports, clearly stating the quantity and value of raw materials and supplies imported and used for the production of exports; the paid import tax amount; the quantity of exported goods, and the import tax amount requested for refund. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of tax refund request (one original);

- b/ The list of consumption norms of imported raw materials and supplies per product unit (one original);
 - c/ The customs declaration of imported raw materials and supplies having gone through customs procedures; the import contract (one copy and the original for comparison);
 - d/ The tax payment document (one copy and the original for comparison);
 - e/ The customs declaration of export goods having gone through customs procedures (one copy and the original for comparison); the export contract (one copy);
 - f/ The contract on export or import entrustment, for case of export or import entrustment (one copy);
 - g/ The via-bank payment document for the exported goods (one copy and the original for comparison); a list of via-bank payment documents for goods lots for which payment is made in installments (one original);
 - h/ The contract on joint production of exports, for the case of joint production of exports (one copy);
 - i/ A list of written declarations of exported products to be liquidated, made according to a set form (not printed herein) (one original);
 - j/ A report on warehousing, ex-warehousing and stocking of imported raw materials and supplies, made according to a set form (not printed herein) (one original);
 - k/ A report on tax calculation based on imported raw materials and supplies, made according to a set form (not printed herein) (one original).
- Particularly for enterprises that import goods for the production of exports but do not use them directly in the production but export them into non-tariff zones or to foreign countries for processing and then receive processed products for further production and/or export, and have paid import tax, apart from the papers stated at Point 5 above, the following papers must be added:
- + The customs declaration of raw materials and supplies exported for processing and having gone through customs procedures (one copy and the original for comparison);
 - + The customs declaration of products imported from non-tariff zones or abroad and having gone through customs procedures (one copy and the original for comparison);
 - + The tax payment document (for imported processed products) (one copy and the original for comparison);
 - + The processing contract with an enterprise in the non-tariff zone or with the foreign party (one copy).

refund consideration is similar to that guided at Point 5 of this Section.

7. For the case specified at Point 5.2.3, Section I of this Part, a dossier comprises:

a/ A written request for refund of import tax on raw materials and supplies imported for the processing of exports, clearly explaining goods items, quantities and value of imported raw materials and supplies; the paid import tax amount; the quantity of exported products; and the import tax amount requested for refund. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The customs declaration of exports (in the form of processing) having gone through customs procedures (one copy and the original for comparison);

c/ The processing contract signed with the foreign customer, clearly specifying goods items, kinds, quantities of raw materials and supplies imported by the processing enterprise (one copy);

d/ The papers stated at Items b, c, d, f, g, i, j and k, Point 5 above.

8. For the case specified at Point 5.2.4, Section I of this Part, the dossier is similar to that for the case specified at Point 5 above. Particularly:

a/ The contract on export of products is replaced by the contract on processing of exports signed with the foreign customer; the contract on purchase of products to be used for the processing contract and the contract on processing of products for export with the foreign customer can be incorporated in a sole contract (one copy);

b/ The list of consumption norms of imported raw materials and supplies for the production of products to be used for the production of processed products and consumption norms of raw materials for the production of exports under the signed processing contract (one original);

c/ The list of quantities of products produced by the enterprise, which have been actually used for the production of exports, signed by the enterprise director who is responsible before law for this list (one original).

9. For the case specified at Point 5.2.5, Section I of this Part, a dossier comprises:

a/ A written request for import tax refund, clearly explaining the quantity and value of imported raw materials and supplies for the production of goods for sale to other enterprises for direct production or processing of exports; the quantity of sold goods, the quantity of exported products, the paid import tax amount; and the import tax amount requested for refund. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is

- of request for tax refund consideration (one original);
- b/ The exporting enterprise's customs declaration of exports, containing the customs office's certification of the actual exportation (one copy and the original for comparison);
 - c/ The sale invoice for the trading of goods between two units (one copy); the list of goods sale invoices (one original);
 - d/ The economic contract on goods purchase and sale between the importing enterprise and the exports-producing or -processing enterprise, clearly stating that such goods are to be used for the production or processing of exports (or for export in component sets); the document on payment for goods (one copy);
 - e/ The production or processing contract signed with the foreign customer (one copy);
 - f/ The product-exporting enterprise's declaration of the quantity and actual consumption norm of products bought for direct production of a unit of export product;
 - g/ The import contract signed with a foreign trader, for enterprises engaged in on-spot import;
 - h/ The papers stated at Items b, c, d, f, g, i, j and k, Point 5 above.

10. For the case specified at Point 5.2.6, Section I of this Part, a dossier comprises:

- a/ A written request for import tax refund, clearly explaining the quantities and value of imported raw materials and supplies; the paid import tax amount; the quantity of products already sold to the exporting enterprise; the quantity of products already exported; and the import tax amount requested for refund. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);
- b/ The list of consumption norms of raw materials and supplies imported for the production of a unit of product sold to other enterprises for export (one original);
- c/ The sale and purchase contract; sale invoices of the enterprise selling products to the product-exporting enterprise (one copy);
- d/ The papers stated at Items c, d, e, f, g, i, j and k, Point 5 above.

11. For the case specified at Point 5.2.7, Section I of this Part, a dossier comprises:

- a/ A written request for tax refund consideration, clearly explaining the quantity and value of imported raw materials and supplies used for the production of goods for sale to foreign customers, which are consistent with the kind and quantity of exports in the customs declaration of goods for on-spot export, and indicating the number of the customs declaration of imports; items, quantities and value of imported raw materials and

the import tax amount requested to be refunded. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund (one original);

b/ The list of consumption norms of raw materials and supplies imported for the production of a unit of product for on-spot export (one original);

c/ The value-added invoice made by the exporting enterprise (the customer's original) (one copy);

d/ The customs declaration of goods for on-spot import or export having gone through customs procedures (one copy and the original for comparison);

e/ The goods purchase and sale contract designating the goods delivery in Vietnam (for exporters), the goods purchase and sale contract or the processing contract designating the goods receipt in Vietnam (for importers) (one copy);

f/ The papers stated at Items c, d, f, g, i, j and k of Point 5 above.

12. For the case specified at Point 6, Section I of this Part, a dossier comprises:

a/ A written request for refund of the paid tax, clearly stating kinds of goods, the tax amount and reason for requesting tax refund and the customs declaration. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The goods sale and purchase contract signed with the seller and the buyer or the import entrustment contract signed with the foreign party (one copy);

c/ The customs declaration of imports or exports having gone through customs procedures (one copy and the original for comparison);

d/ The papers stated at Items d, f and g of Point 5 above.

13. For the case specified at Point 7, Section I of this Part, a dossier comprises:

a/ A written request for refund of the paid export tax and non-payment of import tax, clearly stating the tax amounts, the reasons for tax refund, the customs declaration and the commitment that the goods have not gone through production, processing, repair or use overseas. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The notice of the foreign customer or the agreement with the foreign customer on

receiving back the goods, clearly stating the reason, quantity and kind of the returned goods (one original);

c/ The customs declaration of exports having gone through customs procedures and the set of documents of the export lot (one copy and the original for comparison);

d/ The declaration of re-imported goods, clearly indicating the export document set under which those goods were exported and the customs office's specific goods inspection result certifying that the goods re-imported into Vietnam are those previously exported by the enterprise. If the previously exported goods were exempt from actual inspection under the conclusion of a competent state agency or an appraisal organization as provided for by the Customs Law, the customs office shall compare the result of inspection of the actually re-imported goods with the export goods lot dossier in order to certify whether or not the re-imported goods are exactly the exported ones (one copy and the original for comparison);

e/ The papers stated in Items d, f and g of Point 5 above (except when payment has not yet been made).

14. For the case specified at Point 8, Section I of this Part, a dossier comprises:

a/ A written request for consideration of import tax refund and non-payment of export tax, clearly stating the tax amount and the reason for tax refund request, the customs declaration (clearly stating the quantity, type and value of the re-exported goods). If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the tax refund request is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The written agreement on the return of goods to the foreign party, clearly stating the reason for the return, the quantity, quality, kind and origin of the goods (one original);

c/ The customs declaration of exports, clearly stating the customs office's goods inspection result and certification of the actual exportation, which indicates the quantity, quality and kind of the exports and the imports dossier set under which the goods were exported, and the enclosed set of documents of the exports lot. If the imports were previously exempt from actual goods inspection under the conclusion of a competent state agency or an appraisal organization under the Customs Law, the customs office shall compare the result of inspection of actually exported goods with the dossier of the import lot in order to certify whether or not the re-exported goods are exactly the imported ones (one copy and the original for comparison);

d/ The invoice-cum-ex-warehousing bill (one copy);

e/ The papers stated at Items d, f and g of Point 5 above (except when payment has not yet been made).

15. For the case specified at Point 9, Section I of this Part, a dossier comprises:

a/ A written request for consideration of refund of the paid tax, clearly stating kinds of goods, the tax amount and reason for requesting tax refund and the customs declaration. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The contract (or written agreement) on import or borrowing of machinery, equipment, instruments or means of transport (one copy);

c/ The import permit for imports requiring permits (one copy);

d/ The customs declaration of imports or exports, with the liquidation and certification by the customs office of the quantity and kind of the actually imported or actually re-exported goods and the set of documents of the imports or exports (one copy and the original for comparison);

e/ The papers stated in Items d and f of Point 5 above.

16. If organizations or individuals importing machinery, equipment, instruments or means of transport cannot re-export them within the re-export time limit and are permitted by a competent state agency for their transfer to other subjects in Vietnam for continued management and use; and subsequently, the receiving or re-purchasing subjects actually re-export them from Vietnam and the original importers are refunded the import tax, apart from the dossier specified at Point 15 above, the following papers must be added:

a/ The official letter of the Trade Ministry (or a competent state agency) permitting the transfer and receipt of the temporarily imported machinery, equipment, instruments or means of transport (if required under state regulations) (one original);

b/ The contract on sale and purchase of or the written record on handover and receipt of machinery, equipment, instruments or means of transport between the two parties (one copy);

c/ The invoice-cum-ex-warehousing bill or the sale invoice of the importing organization or individual, which is handed to the buyer or the transferee (one copy);

d/ The dossier set of the goods temporarily imported on the spot (one copy).

17. For the case specified at Point 10, Section I of this Part, a dossier comprises:

a/ A written request for consideration of refund of the paid tax, clearly stating kinds of goods, the tax amount and reason for requesting tax refund and the customs declaration. If different kinds of goods are declared in different customs declarations, a list of customs

declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ Dossiers and documents related to imports or exports (one copy);

c/ The customs declaration of imports or exports, with the liquidation and certification by the customs office of the quantity, kind and value of the actually imported, exported, confiscated or destroyed goods (one copy);

d/ The tax payment document (one copy and the original for comparison).

18. For the case specified at Point 11, Section I of this Part, a dossier comprises:

a/ A written request for consideration of refund of the paid tax, clearly stating kinds of goods, the tax amount and reason for requesting tax refund and the customs declaration. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The customs declaration of imports or exports having gone through customs procedures (one copy and the original for comparison);

c/ The tax payment document (one copy and the original for comparison).

19. For the case specified at Point 12, Section I of this Part, the dossier comprises:

a/ A written request for consideration of refund of the paid tax, clearly stating kinds of goods, the tax amount and reason for requesting tax refund and the customs declaration. If different kinds of goods are declared in different customs declarations, a list of customs declarations involved in the request for tax refund is required together with commitments on accurate declaration and supply of proper dossier of request for tax refund consideration (one original);

b/ The customs declaration of imports or exports, already liquidated by the customs office (one copy and the original for comparison);

c/ The goods purchase and sale invoice (one copy);

d/ The violation-handling written record (one copy);

e/ A competent state agency's decision on confiscation of goods in violation (one copy);

f/ The tax payment document (one copy and the original for comparison).

20. For the case specified at Point 13, Section I of this Part, a dossier comprises:

a/ A competent state agency's tax exemption decision (one copy);

b/ The papers stated at Items a, b, c and f of Point 19 above.

III. Some other guidance on procedures and dossiers for tax refund consideration:

1. Via-bank payment documents in dossiers for tax refund consideration (or tax non-payment consideration) comply with Appendix I to this Circular (not printed herein). Particularly for re-exported petrol and oil, the currency for payment must be USD (US dollar).
2. Taxpayers that export goods but then have to import them back into Vietnam (as specified at Point 7, Section I, Part E of this Circular) or import goods but then have to re-export them back or export them to a third country (as specified at Point 8, Section I, Part E of this Circular) and carry out customs procedures at different places (not at the same border gate), which are all under the management of the same local customs department, may be considered for refund of export tax (if any) and are not required to pay import tax when they have to re-import the exported goods or be considered for refund of the paid import tax amounts and are not required to pay export tax when they have to re-export the imported goods.
3. If the tax payment time limit has not expired and tax has not been paid but the goods have been actually exported or imported, dossiers for non-collection of tax for the cases eligible for tax refund specified at Points 4, 5, 6, 7 and 8, Section I of this Part are similar to dossiers for tax refund but exclusive of the tax payment document.

IV. Procedures and order for tax refund consideration:

1. Submission and receipt of dossiers for tax refund consideration:

The submission and receipt of dossiers for tax refund consideration comply with the provisions of Article 59 of the Law on Tax Administration.

2. Classification of tax refund dossiers:

2.1. Dossiers subject to inspection after tax refund are dossiers of taxpayers with good tax law observance records and have their transactions paid via commercial banks or other credit institutions.

2.2. Dossiers subject to inspection before tax refund are dossiers of taxpayers falling into one of the following cases:

- They request tax refund according to the provisions of a treaty to which the Socialist Republic of Vietnam is a contracting party;
- They request tax refund for the first time;
- They committed acts of tax evasion or tax fraud within 2 (two) years before the time of tax refund request;

- They do not conduct payment transactions via banks according to regulations;
- Enterprises are merged, consolidated, divided, split up, dissolved, bankrupt, undergo ownership transformation or terminate their operation; state enterprises are assigned, sold, contracted or leased;
- They fail to explain information or documents or fail to make additional declarations in tax refund dossiers as requested upon the expiration of the time limit notified by the customs office;
- Goods that have been already declared and for which import tax has been paid at an ordinary or preferential import tax rate are requested to be liable to import tax at a preferential or particularly preferential import tax rate and eligible for a tax difference; imports being automobiles, parts and spare parts; motorcycles (motorbikes), parts and spare parts; petrol, oil, iron and steel; other imports subject to state management according to law.

3. Processing of tax refund dossiers:

3.1. For dossiers subject to inspection after tax refund:

Customs offices shall preliminarily examine dossiers, check their consistency and validity, and determine whether objects stated in these dossiers are eligible for tax refund and whether the taxpayers' declarations are accurate, then issue decisions on tax refund according to the taxpayers' declarations.

If they have, through preliminary examination, grounds to determine that the taxpayers' declarations are inaccurate, they shall notify the taxpayers of the transfer of their dossiers to inspection before tax refund.

If they determine that the cases stated in the dossiers are ineligible for tax refund, they shall refuse tax refund according to relevant legal documents and notify the taxpayers of the reason for non-refund.

The time limit for customs offices to issue tax refund decisions or notify the taxpayers of transfer of the dossiers to inspection before tax refund or the reason for tax non-refund is 15 (fifteen) days from the date of receipt of complete tax refund dossiers.

After issuing tax refund decisions, customs offices shall examine in detail tax refund dossiers. If they determine that tax refund conditions are not fully satisfied, they shall revoke tax refund decisions, then retroactively collect tax and impose fines according to regulations.

3.2. For dossiers subject to inspection before tax refund:

3.2.1. For dossiers subject to inspection before tax refund, customs offices shall:

- Preliminarily examine the dossiers, check the consistency and validity of the dossiers;

- Check accounting books and documents, warehousing and ex-warehousing bills, documents of payment for goods; the accounting and cost-accounting at units; consumption norms of raw materials and supplies; conduct field inspection of production and business activities of units;

- Check, verify and compare business transactions with other related organizations or individuals when they detect through inspection cases which are complicated and need to be further inspected.

3.2.2. If they determine, through checking and inspection, that objects stated in dossiers are ineligible for tax refund, they shall notify the taxpayers of the reason for non-refund.

3.2.3. If they determine, through checking and inspection, that objects stated in dossiers are eligible for tax refund and the taxpayers' declarations are accurate, they shall issue decisions on tax refund according to the taxpayers' declarations within sixty (60) days from the date of receipt of complete tax refund dossiers.

3.3. Based on tax amounts refundable to taxpayers, customs offices shall issue tax refund decisions. If the taxpayers still owe tax or fine amounts, customs offices shall issue tax refund decisions and state budget collection orders.

3.4. Past the above time limit, if the issuance of tax refund decisions is delayed due to the fault of customs offices, customs offices shall pay, apart from refundable tax amounts, interests on these amounts for the duration counting from the date they should have issued tax refund decisions to the date they actually issue these decisions.

4. Based on tax refund decisions, customs offices where taxpayers have refundable tax amounts shall liquidate refundable tax amounts and clearly write in the original customs declarations kept at their units and by the taxpayers the following "tax amount of ... refunded under decision No... dated... (month, year) issued by..." and carry out the procedures for handling of refunded or overpaid tax amounts under the guidance of Point 5 below.

5. Handling of refundable or overpaid tax amounts:

5.1. If the source for tax refund originates from temporary collection accounts:

Customs offices where taxpayers have their refundable or overpaid tax amounts shall check these amounts on the computer network for monitoring tax arrears and handle them in the following order:

5.1.1. They shall refund tax amounts to taxpayers that no longer have tax or fine arrears according to regulations.

When taxpayers make written requests for offsetting overpaid tax amounts against tax amounts due on imports or exports in the subsequent period instead of refund, customs

offices where taxpayers have their refundable or overpaid tax amounts shall make offsetting at the request of the taxpayers.

When offsetting refundable or overpaid tax amounts against the taxpayers' payable tax amounts in the subsequent period, customs offices shall clearly write in the customs declarations involved in tax offsetting the following: "Tax amount of VND... offset under tax refund decision No... dated...(month, year) issued by... and offsetting decision No..., dated...(month, year) issued by..."; and concurrently write the offset tax amount and the serial number and date of the customs declaration involved on the original tax refund decision, customs declarations involved in tax refund and the tax payment document of the customs declaration involved in tax refund for monitoring.

5.1.2. If taxpayers have tax or fine arrears, customs offices shall offset overpaid or refundable tax amounts against tax arrears, retroactively collected tax amounts or fine arrears of these taxpayers.

5.1.3. If there remains a surplus amount after the above offsetting is made, customs offices where taxpayers have their refundable or overpaid tax amounts shall carry out procedures for refunding it to the taxpayers.

If taxpayers request in writing the offsetting of the surplus amount against tax amounts due on imports or exports in the subsequent period instead of refund after all debts are fully paid in the priority order of paying tax amounts, customs offices where taxpayers have their refundable or overpaid tax amounts shall conduct the offsetting at the request of the taxpayers under the guidance of Point 5.1.1 above.

5.2. If the source for tax refund originates from the state budget:

5.2.1. If taxpayers have no tax or fine arrears and do not request offsetting of refundable or overpaid tax amounts against payable tax amounts in the subsequent period, customs offices shall send tax refund decisions to the State Treasury where tax refund is made. Based on tax refund decisions issued by customs offices, the State Treasury shall effect the refund to taxpayers.

Refund accounting is conducted as follows:

- If state budget revenues have not yet been finalized, the State Treasury shall reimburse revenues according to the state budget index.

- If revenues have been finalized, the State Treasury shall account budget expenditures according to the refunded amounts and send one copy of each tax refund document to customs offices that have issued tax refund decisions for monitoring and management.

5.2.2. If taxpayers are entitled to tax refund and will offset other tax amounts, customs offices shall send tax refund decisions and state budget collection orders to the State Treasury where tax refund is made for the latter to account according to regulations.

Refund accounting is conducted as follows:

- If the State Treasury where tax refund is made has collected tax, it shall effect the refund accounting under the guidance of Point 5.2.1 above; it shall account budget revenues according to collection orders of customs offices and refund the surplus tax amount (if any) to taxpayers.
- If the State Treasury where tax refund is made has not collected tax, it shall account tax refund under the guidance of Point 5.2.1 above; transfer refunded amounts together with customs offices' budget collection orders to the State Treasury that has collected tax for accounting state budget revenues according to the collection orders, and shall refund the surplus tax amount (if any) to taxpayers.

5.3. The handling of overpaid tax amounts as guided at this Point does not apply to value-added tax amounts wrongly paid or overpaid by taxpayers for imports to customs offices.

If taxpayers wrongly pay or overpay value-added tax amounts on imports to customs offices, customs offices shall certify wrongly paid or overpaid tax amounts so that tax agencies can refund them to taxpayers according to regulations. The certification is made as follows:

- Taxpayers shall make and send dossiers of request for certification of wrongly paid or overpaid value-added tax amounts to customs offices where customs declarations are registered. A dossier comprises:
 - + A written request for certification of the wrongly paid or overpaid value-added tax amount, the reason for wrong payment or overpayment: one original;
 - + The custom declaration related to the wrongly paid or overpaid value-added tax amount: one original and one copy;
 - + The tax payment document: one original.
- The customs office shall compare the originals with the copies of the customs declaration and tax payment document, then return the original declaration to the taxpayer and issue a written certification of the wrongly paid or overpaid value-added tax amount.
- If wrongly paid or overpaid value-added tax amounts are detected by customs offices themselves, taxpayers are not required to send dossiers of request for certification. Customs offices shall notify such to taxpayers and issue written certifications according to regulations.

6. Competence to consider tax refund:

Directors of local customs departments where taxpayers have overpaid or refundable tax amounts shall refund tax to taxpayers under the provisions of this Section.

7. Time limit for submission of tax refund dossiers

7.1. Taxpayers shall submit tax refund (tax non-payment) dossiers in the cases specified at Points 4, 6, 7, 8 and 9, Section I, Part E of this Circular to customs offices with tax refund competence within 45 days from the date of registration of customs declarations of exports, if requesting import tax refund, or within 45 days from the date of registration of customs declarations of imports, if requesting export tax refund.

7.2. For the case specified at Point 5, Section I, Part E of this Circular:

7.2.1. If taxpayers actually export goods within the tax payment time limit, the time limit for submission of tax refund dossiers is 45 (forty five) days from the date of registration of the last customs declaration of exports stated in the customs declaration of imported raw materials and supplies for which tax refund is requested.

7.2.2. If taxpayers do not actually export goods within the tax payment time limit, they shall declare and pay import tax and value-added tax (if any) after the date of expiration of the tax payment time limit. Customs offices shall check and collect import tax and value-added tax according to regulations.

Taxpayers are refunded the paid tax amount according to regulations after they actually export products produced from imported goods for which tax has been paid. The time limit for submission of tax refund dossier is 45 days from the date of registration of customs declarations of exports.

7.3. If the payment time limit stated in export contracts is longer than 45 days counting from the date of actual export of goods, taxpayers shall still submit tax refund dossiers to customs offices within the time limit guided at Points 7.1 and 7.2 above and concurrently commit in writing to produce payment documents within 15 (fifteen) days from the date of expiration of the payment time limit stated in the contracts.

7.4. Past the time limit specified at Points 7.1, 7.2 and 7.3, if taxpayers still fail to submit tax refund dossiers, they shall be sanctioned for administrative violations in the customs domain.

8. Procedures, order and competence for considering the non-collection of tax for cases eligible for tax refund, in which the tax payment time limit has not expired and tax has not yet been paid but goods have been actually imported or exported, are similar to those for considering tax refund. Particularly, tax refund decisions are replaced with tax non-collection decisions.

Part F

EXTENSION OF TAX PAYMENT TIME LIMIT; REMISSION OF TAX AND FINE ARREARS

I. Extension of tax payment time limit:

1. Cases eligible for extension of tax payment time limit:

Taxpayers are considered for extension of the time limit for tax or fine payment in the cases specified in Clause 1, Article 24 of Decree No. 85/2007/ND-CP of May 25, 2007.

2. A dossier for extension of tax payment time limit comprises:

- A written request for extension of the time limit for tax or fine payment, clearly stating the reason, the tax or fine amount and the requested extension. If the tax or fine amount involved in the request is stated in different customs declarations, a list of those customs declarations is required together with commitments on accurate declaration and supply of a proper dossier of request for extension; a plan and commitment on payment of the tax or fine amount: one original;
- The tax declaration dossier of the tax or fine amount involved in the request: one copy;
- A competent state agency's written record of the extent and amount of damage certified by the provincial/municipal Police Department or People's Committee of the locality where the ground for extension request arises, for the case of natural disaster, fire or unexpected accident: one original;
- A written certification by the local tax agency directly managing the taxpayer of the extent of damage directly caused by the relocation of the taxpayer's place of business; a change in state policy or other special reasons: one original;
- A competent state agency's decision on the relocation of the place of business: one copy;
- A document on policy change, for the case of damage caused by a change in state policy: one copy;
- Papers evidencing the ground for request for tax payment time limit extension, for the case of other special reasons: one original;
- A report on the payable tax amount due and the tax arrear: one original.

3. Receipt and processing of dossiers for time limit extension:

3.1. Receipt of dossiers:

- For dossiers for time limit extension submitted directly to customs offices, customs officers shall receive and append a seal of dossier receipt, and write the time of dossier receipt and the number of documents in the dossiers.
- For dossiers for time limit extension sent by post, customs officers shall append a seal showing the date of dossier receipt and record them in the customs offices' incoming mail books.

- For dossiers for time limit extension sent electronically, customs offices shall receive, examine and accept them through their electronic data processing systems.

3.2. Processing of dossiers:

If taxpayers' dossiers for time limit extension are not complete as required, customs offices shall, within 3 (three) working days from the date of dossier receipt, notify in writing taxpayers thereof for completion of their dossiers.

Taxpayers shall complete their dossiers within 5 (five) working days from the date of receipt of notices on dossier supplementation from customs offices. If taxpayers fail to complete their dossiers at the request of customs offices, they are not entitled to tax payment time limit extension according to regulations.

If time limit extension dossiers are complete, accurate and for proper subjects as defined, customs offices shall notify in writing their consent to an extension to taxpayers within 10 (ten) working days from the date of receipt of complete dossiers.

4. Tax and fine amounts eligible for an extended payment time limit:

- For material damage caused by a natural disaster, fire or unexpected accident which renders a taxpayer unable to pay tax within the set time limit, the tax or fine amount eligible for an extended payment time limit is at most equal to the taxpayer's total tax or fine arrear by the time of occurrence of that natural disaster, fire or unexpected accident but, however, must not exceed the material damage.
- For damage caused by other events, tax and fine amounts eligible for an extended payment time limit are at most equal to tax and fine amounts due.

5. Tax payment time limit extension:

5.1. For material damage caused by a natural disaster, fire or unexpected accident which renders a taxpayer unable to pay tax within the set time limit:

- If the tax amount for which an extended payment time limit is requested is VND 5 (five) billion or more, the maximum extension is 2 (two) years.
- If the tax amount for which an extended payment time limit is requested is less than VND 5 (five) billion, the maximum extension is 1 (one) year.

5.2. For damage caused by other events:

- If the tax amount for which an extended payment time limit is requested is VND 5 (five) billion or more, the maximum extension is 1 (one) year.
- If the tax amount for which an extended payment time limit is requested is less than VND 5 (five) billion, the maximum extension is 6 (six) months.

payment time limit.

7. Competence to extend tax payment time limit:

7.1. For the cases specified at Items a, b and c, Clause 1, Article 24 of Decree No. 85/2007/ND-CP of May 25, 2007:

7.1.1. A district-level customs sub-department to which a taxpayer owes tax or fine amounts shall grant an extension in case these tax or fine amounts arise at only one customs sub-department;

7.1.2. A customs department to which a taxpayer owes tax or fine amounts shall grant an extension in case these tax or fine amounts arise at two or more customs sub-departments under the same local customs department;

7.1.3. The General Department of Customs shall grant an extension in case tax or fine amounts arise at two or more local customs departments.

7.2. For the cases specified at Item d, Clause 1, Article 24 of Decree No. 85/2007/ND-CP of May 25, 2007:

The General Director of Customs shall receive dossiers of request for tax payment time limit extension and report them to the Minister of Finance for submission to the Prime Minister for consideration and decision for each specific case.

II. Tax or fine remission:

1. Cases eligible for tax or fine remission:

Taxpayers are considered for tax or fine remission in the cases specified in Article 65 of the Law on Tax Administration.

2. A dossier of request for tax or fine remission:

2.1. A written request for tax or fine remission of the district-level customs sub-department to which the taxpayer eligible for tax or fine remission owes tax or fine amounts, clearly stating the reason and the tax or fine amount requested to be remitted: one original;

2.2. The customs dossier of the tax or fine amount requested to be remitted: one photocopy;

2.3. A competent state agency's decision and the written declaration for tax finalization, in case the taxpayer declared bankrupt has already made payments according to the provisions of bankruptcy law and no longer has property to pay the tax or fine amount: one original;

2.4. A court judgment or ruling declaring an individual taxpayer deceased, missing or having lost his/her civil act capacity without any property to pay the tax or fine arrear:

one original;

2.5. Documents related to the request for remission of tax or fine amount: one photocopy.

3. Responsibilities and powers of customs offices:

3.1. Customs offices to which taxpayers owe tax or fine amounts shall make dossiers of request for tax or fine remission, for taxpayers falling into the cases eligible for tax or fine remission specified in Article 65 of the Law on Tax Administration, then send them to local customs departments.

3.2. Local customs departments shall examine and assess the accuracy and completeness of dossiers and conduct the following activities:

- If dossiers are incomplete, they shall, within 10 working days from the date of dossier receipt, notify such to customs offices to which taxpayers owe tax or fine amounts for completion of dossiers. Notices must clearly state omitted or improper papers.

- If dossiers are complete, they shall, within 10 working days from the date of dossier receipt, send them to the General Department of Customs according to the provisions of Article 68 of the Law on Tax Administration.

3.3. Within 50 days from the date of receipt of complete dossiers sent by local customs departments, the General Department of Customs shall propose plans on tax or fine remission to the Ministry of Finance.

3.4. Within 10 days from the date of receipt of tax or fine remission dossiers from the General Department of Customs, the Ministry of Finance shall issue decisions on remission or notify in writing of taxpayers of their ineligibility for tax or fine remission.

4. Tax or fine amounts to be remitted:

Tax or fine amounts to be remitted are total amounts owed by taxpayers by the time they are declared bankrupt after they make all payments according to the provisions of bankruptcy law and, therefore, no longer have property to pay those tax or fine amounts or by the time individual taxpayers are considered deceased, missing or having lost their civil act capacity without any property to pay tax or fine arrears.

5. Other provisions on remission of tax or fine arrears comply with the provisions of the Law on Tax Administration and Decree No. 85/2007/ND-CP of May 25, 2007.

Part G

RETROSPECTIVE COLLECTION OF TAX

I. Cases of retrospective collection of import tax or export tax:

1. For cases in which tax was exempt or considered for exemption under the provisions of this Circular, if goods are subsequently used for purposes other than the purposes eligible

for tax exemption or tax exemption, tax amounts must be paid in full, except for cases where those goods are transferred to subjects eligible for tax exemption or tax exemption under the provisions of this Circular.

2. Where taxpayers or customs offices make errors in tax declaration, calculation or payment, tax deficits owed within 365 days preceding the date of detection of those errors must be retrospectively paid. The date of detection of such an error is the date of signing of a written certification thereof between the taxpayer and the customs office.

3. In case of detection of a tax fraud or evasion, the tax amount evaded within 5 years preceding the date of examination and detection of such tax fraud or evasion must be retrospectively collected. The date of detection of such a tax fraud or evasion is the date of signing of the tax retrospective collection decision by a competent state agency.

4. For cases subject to retrospective payment specified in this Section which involve to be-retrospectively paid tax amounts of less than VND 50,000, taxpayers are not required to pay those amounts.

II. Bases for calculation of import tax or export tax:

For the case specified at Point 1, Section I of this Part, the bases for tax calculation are taxable value, tax rate and exchange rate applied at the time of change of the purpose eligible for tax exemption or tax exemption.

Particularly for tax rates, if the originally imported goods are brand-new, they are subject to the tax rate applied at the time of change of the use purpose of brand-new goods; if the originally imported goods are used ones, they are subject to the tax rate applied at the time of change of the use purpose of used goods.

Particularly for cases of purchase of used cars that are originally imported and eligible for tax exemption or tax exemption, when their use purposes change, import tax must be paid at the tax rate applicable to used cars according to regulations effective at the time of use purpose change. Before May 1, 2006, the import tax rate applicable to used passenger cars of less than 16 seats is 150%. From May 1, 2006, the specific tax rate specified in the Prime Minister's Decision No. 69/2006/QĐ-TTg of March 28, 2006 and the Minister of Finance's Decision No. 05/2007/QĐ-BTC of January 15, 2007 (the criteria or conditions for import of this particular type of car are not applied like those applicable to used cars specified in the Government's Decree No. 12/2006/NĐ-CP of January 23, 2006 and Joint Circular No. 03/2006/TTLT-BTM-BGTVT-BTC-BCA of March 31, 2006). The value for import tax calculation is determined on the residual use value of goods based on the duration of use and stay in Vietnam (counting from the time of import stated in the customs declaration to the time of tax recalculation) and in a percentage (%) of the declared value at the time of registration of the customs declaration. If no value is declared at the time of registration of the customs declaration or the declared value is not

true to the actually paid value, the customs department that carries out transfer procedures is assigned to re-determine the declared value to serve as a basis for tax calculation.

2. For the cases specified at Points 2 and 3, Section I of this Section, the bases for import tax or export tax calculation are taxable value, tax rate and exchange rate applied at the time of registration of previous customs declaration.

III. The time limit for tax declaration is 10 (ten) days after the date of change of the purpose eligible for tax exemption or tax exemption, resulting in the tax payment, for the case specified at Point 1, Section I of this Part, or 10 days, counting from the date of detection of errors for the case specified at Point 2, Section I of this Part; and from the date examination and detection of a tax fraud or evasion for the case specified at Point 3, Section I of this Part.

In case the change of the use purpose must be permitted by a competent state agency, organizations or individuals may not arbitrarily change the use purpose before being so permitted and the date of the use purpose change is the date they are permitted by a competent state agency. In case organizations or individuals arbitrarily change the use purpose, the date of the use purpose change is the date they do so.

IV. The time limit for payment of tax amounts and fines (if any) is 10 days after competent state agencies issue decisions on payable tax or fine amounts (if any), for the case specified at Point 1, Section I of this Part, or from the date competent state agencies issue decisions on retrospectively collected tax and fine amounts (if any) for the case specified at Points 2 and 3, Section I of this Part.

1. In some special cases when taxpayers meet with financial difficulties and request in writing to pay the above tax or fine amounts within a time limit of more than 10 days, they shall register their plans for payment of those tax or fine amounts and concurrently obtain a guarantee for those tax or fine amounts by a credit institution or another organization operating under the Law on Credit Institutions. For late payment of tax or fine amounts, taxpayers shall also pay an amount equal to 0.05% of the lately paid amount for each date of late payment. Local customs departments where taxpayers register customs declarations shall consider the extension of the time limit in these cases.

2. A dossier of request for a tax payment time limit of more than 10 days:

- A written request for permission for tax or fine payment within more than 10 days, clearly stating the tax or fine amount, the reason for the request and the committed plan on tax or fine arrear payment: one original;
- The tax declaration dossier of the tax or fine amount for which a payment time limit of more than 10 days is requested: one copy;
- The guarantee paper of a credit institution or another organization operating under the Law on Credit Institutions for the tax or fine amount: one original.

Part H

FULFILLMENT OF THE TAX OBLIGATION

I. Fulfillment of the tax obligation by persons on exit:

1. Before their exit from Vietnam, Vietnamese who leave the country to permanently reside abroad, overseas Vietnamese and foreigners who have tax or fine arrears on imports or exports shall fulfill their tax obligation.
2. Customs offices shall notify in writing the entry and exit management agency of the fulfillment of the tax obligation for imports or exports by individuals who have tax or fine arrears on imports or exports. Such a notice must state the full name of the individual who has not yet fulfilled the tax obligation; his/her date of birth, nationality, serial number of his/her identity card/passport, and the customs office that manages the tax arrear.
3. The entry and exit management agency shall stop the exit of persons who have not yet fulfilled the tax obligation specified at Point 1 above according to the provisions of Article 53 of the Law on Tax Administration.

II. Fulfillment of the tax obligation in case of dissolution, bankruptcy or operation termination:

1. The tax obligation in case of dissolution, bankruptcy or operation termination shall be fulfilled under Article 54 of the Law on Tax Administration and the laws on enterprises, cooperatives and bankruptcy.
 - Owners of private enterprises, members' councils or owners of limited liability companies, boards of directors of joint stock companies or enterprise-liquidating organizations are responsible for the fulfillment of the tax obligation of dissolved enterprises.
 - Councils for dissolution of cooperatives are responsible for the fulfillment of the tax obligation of dissolved cooperatives.
 - Asset management or liquidation teams are responsible for the fulfillment of the tax obligation of dissolved enterprises.
2. Responsibility to fulfill the tax obligation in case taxpayers terminate their operation without carrying out dissolution or bankruptcy procedures specified by law:
 - 2.1. For enterprises that terminate their operation not according to enterprise dissolution or bankruptcy procedures but have not yet fulfilled the tax obligation, owners of private enterprises, chairmen of members' councils or owners of limited liability companies, chairmen of boards of directors of joint stock companies, or heads of management boards of cooperatives are responsible for paying remaining tax arrears.

2.2. For households or individuals that terminate their business operation but have not yet fulfilled the tax obligation, heads of those households or those individuals are responsible for paying remaining tax arrears.

2.3. For cooperative groups that terminate their operation but have not yet fulfilled the tax obligation, their heads are responsible for paying remaining tax arrears.

III. Fulfillment of the tax obligation in case of reorganization of enterprises:

1. Before being reorganized, enterprises shall fulfill the tax obligation for their imports or exports.

2. If reorganized enterprises fail to fulfill the tax obligation before their reorganization, there must be documents on determination of the tax obligation of each enterprise formed after the reorganization and the enterprises formed after the reorganization shall commit in writing with customs offices to fulfill the tax obligation transferred from the reorganized enterprises.

3. Tax agencies may not grant tax identification numbers to enterprises formed after the reorganization without written certification by customs offices of enterprises' compliance with the provisions of Point 2 above.

4. The tax payment time limit applicable to enterprises formed after the reorganization is defined in Clause 4, Article 55 of the Law on Tax Administration.

IV. Other provisions on fulfillment of the tax obligation comply with the Law on Tax Administration and Decree No. 85/2007/ND-CP of May 25, 2007.

Part I

RIGHTS AND OBLIGATIONS OF TAXPAYERS; RESPONSIBILITIES AND POWERS OF CUSTOMS OFFICES

1. Taxpayers have the rights and obligations specified in Articles 6 and 7 of the Law on Tax Administration.

2. Powers and responsibilities of customs offices and customs officers are defined in Articles 8 and 9 of the Law on Tax Administration.

3. Taxpayers' right to be supplied with information, documents and guidance on the tax law and customs offices' responsibility to supply information, documents and guidance on the tax law are specified as follows:

- Customs offices shall provide tax law guidance to taxpayers by the following modes: supply of information on the customs office website at <http://www.customs.gov.vn>; conferences with verbal questions and answers; publication on newspapers or magazines, radio or television broadcasting, distribution of leaflets or issuance of documents guiding tax policies or law upon written request of taxpayers.

- Guided contents include provisions on tax policies and tax administration procedures, such as rules for classification of commodity codes according to tariffs, methods for determination of taxable values, tax calculation methods, tax payment methods, procedures and dossiers, etc.; supply of information or documents, and explanation of tax calculation or tax assessment for taxpayers and other contents related to tax administration, except for documents and information involved in secrets defined by law.

4. Taxpayers' right to certification of tax obligation fulfillment and customs offices' responsibility to certify the tax obligation fulfillment are specified as follows:

4.1. When wishing to have their tax obligation fulfillment certified, taxpayers shall make written requests, each clearly stating:

- The taxpayer's name and tax identification number;
- Contents requested to be certified;
- Documents evidencing the contents requested to be certified.

4.2. Customs offices shall inspect and certify the tax obligation fulfillment when taxpayers so request in writing according to the provisions of law.

- In case of refusal to certify, they shall notify in writing the reason for refusal;
- In case of necessity to re-check and re-compare information on the taxpayers' tax obligation fulfillment before making certification, customs offices shall notify the taxpayers of the reason for delayed certification;
- The time limit for reply of results to taxpayers is 5 (five) working days from the date of receipt of taxpayers' complete dossiers of request for certification.

Part J

COMPLAINTS AND HANDLING OF VIOLATIONS

I. Complaints and settlement of complaints:

The powers and responsibilities of individuals and organizations in complaining about import tax and export tax and responsibilities and powers of agencies settling those complaints strictly comply with the provisions of the Law on Import Tax and Export Tax and the law on complaints and denunciations.

II. Handling of violations:

Taxpayers, customs officers or other concerned individuals who commit violations related to import tax or export tax shall be handled under the provisions of the Government's Decree on sanctioning of administrative violations in the customs domain and relevant guiding documents.

Part K

ORGANIZATION OF IMPLEMENTATION

1. This Circular takes effect 15 days after its publication in “CONG BAO.”
2. To annul the Finance Ministry’s Circular No. 113/2005/TT-BTC of December 15, 2005, guiding the implementation of import tax and export tax. Particularly, customs values of imports and exports continue to comply with the guidance in Circular No. 113/2005/TT-BTC until the Ministry of Finance’s Circular guiding the customs valuation of imports and exports takes effect.
3. Previous guidance on import tax and export tax policies and tax administration of imports and exports, which is contrary to the guidance in this Circular, is hereby annulled.
4. Contents of tax administration of imports and exports not guided in this Circular comply with the provisions of the Customs Law, the Law on Tax Administration, and documents detailing and guiding the implementation of these laws.
5. For projects entitled to investment incentives which have been granted investment licenses or investment preference certificates stating import tax or export tax preference levels higher than those specified in this Circular, they will continue enjoy such preference levels; in case their investment licenses or investment preference certificates state import tax or export tax preference levels lower than those specified in this Circular, they will enjoy the preference levels specified in this Circular for their remaining preference period.

For projects licensed before January 1, 2006, and having their lists of tax-exempt goods approved by competent state agencies, customs offices shall give tax exemption according to the approved lists (enterprises that have not imported tax-exempt goods may start importing them while enterprises that have imported part of the tax-exempt goods volume may further import the remaining volume and enjoy the tax preferences stated in their investment licenses or investment preference certificates). If their lists of tax-exempt goods have not yet been approved by competent state agencies, enterprises shall determine by themselves and take responsibility before law for the accurate and truthful declaration of goods items eligible for tax exemption according to their investment licenses or investment preference certificates. Untruthful declarations will result in retrospective tax collection and handling according to law.

6. The ground for determining whether or not projects licensed in the period from January 1, 2006 to the effective date of the Government’s Decree No. 108/2006/ND-CP of September 22, 2006, are eligible for investment incentives is Appendix I or Appendix II to the Government’s Decree No. 149/2005/ND-CP of December 8, 2005.

7. Customs declarations of imported, exported, re-exported (for temporary import for re-export), re-imported (for temporary export for re-import) goods, which are registered with customs offices before the effective date of this Circular still comply with previous regulations.

Difficulties and problems arising in the course of implementation of this Circular should be reported by organizations and individuals to the Ministry of Finance for consideration and settlement.