

LAW 78 ON TAX MANAGEMENT

Dated 29 November 2006

As amended 20 November 2012¹

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**LAW
ON
TAX MANAGEMENT**
As amended 20 November 2012²

**National Assembly of the
Socialist Republic of Vietnam
Legislature XI, 10th Session**
(from 17 October to 29 November 2006)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10 passed by Legislature X of the National Assembly at its 10th Session on 25 December 2001;

This Law regulates tax management.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates management of all types of taxes and other revenue of the State Budget, the collection of which is managed by tax management bodies in accordance with law.

Article 2 *Applicability*

1. Taxpayers

- (a) Organizations, family households and individuals paying tax pursuant to the law on tax;
- (b) Organizations, family households and individuals paying other items of revenue of the State Budget (hereinafter all referred to as *taxes*), the collection of which is managed by tax management bodies in accordance with law;
- (c) Organizations and individuals deducting tax; and organizations and individuals conducting tax procedures on behalf of taxpayers.

2. Tax management bodies

- (a) Tax offices including the General Department of Taxation, Departments of Taxation and taxation divisions;

² Allens footnote: As amended by Law 21-2012-QH13 dated 20 November 2012, effective 1 July 2013. All amendments are footnoted.

- (b) Customs offices comprising the General Department of Customs, Departments of Customs and customs divisions.
- 3. Tax management officials, being tax officials and customs officials.
- 4. Other State bodies, and organizations and individuals involved in implementation of the law on tax.

Article 3 *Contents of tax management*

- 1. Tax registration, tax declaration, tax payment and fixing amounts of tax payable.
- 2. Conduct of procedures for tax refund, tax exemption and tax reduction.
- 3. Cancellation of outstanding tax payable, of late payment charges and of fines.
- 4. Management of information about taxpayers.
- 5. Tax checks and inspections.
- 6. Compulsory enforcement of administrative decisions about tax.
- 7. Dealing with breaches of the law on tax.
- 8. Resolution of complaints and denunciations about tax.

Article 4 *Principles of tax management*

- 1. Taxes are major revenue of the State Budget. Tax payment pursuant to law is an obligation and a right of all organizations and individuals. Bodies, organizations and individuals are responsible to participate in tax management.
- 2. Tax management shall be conducted in accordance with this Law and other relevant laws.
- 3. Tax management must ensure publicity, transparency and equality; and must guarantee the lawful rights and interests of taxpayers.
- 4.³ Applying risk management during tax management:
 - (a) Applying risk management during tax management comprises collecting information and building a database on taxpayers; formulating criteria on tax management; assessing compliance with law by taxpayers; and proposing and applying tax management methods;
 - (b) Tax management bodies shall manage and apply a specialized information system in order to assess potential tax risks and the level of compliance with law by taxpayers, and in order to select entities to undergo a tax audit and inspection and in order to assist other professional activities during tax management.
- 5. Priority measures shall be applied when conducting tax procedures for import and export goods if the taxpayer satisfies all the following criteria:

³ Allens footnote: Clauses 4, 5 and 6 were added by Law 21.

- (a) The taxpayer has not, in the preceding two consecutive years, breached the laws on tax and customs;
 - (b) The taxpayer conducts payment via a bank in accordance with law;
 - (c) The taxpayer conducts tax and customs procedures electronically;
 - (d) The taxpayer complies with the law on accounting and statistics;
 - (dd) There is an annual import or export quota at the stipulated level.
6. The Government shall provide detailed regulations for implementation of clauses 4 and 5 above.

Article 5 *Interpretation of terms*

In this Law, the following terms shall be construed as follows:

1. *Representative of a taxpayer* means the legal representative or authorized representative who represents the taxpayer in conducting a number of tax procedures.
2. *Main address of a taxpayer* means the place where the taxpayer conducts some or all of its business activities and includes a head office, branch, shop, manufacturing location, place where goods are stored, and place where assets are used for production and business; and means the place of residence or place where tax obligations arise in the case of a taxpayer without business activities.
3. *Tax code* means a row of numbers, letters or other characters which the tax management body issues to a taxpayer for use for tax management purposes.
4. *Tax period* means a period of time for determining the amount of tax payable to the State budget in accordance with the law on tax.
5. *Tax declaration* means a document on the standard form stipulated by the Ministry of Finance and used by taxpayers to declare information aimed at determining the amount of tax payable. A customs declaration shall be used to declare duty on import or export goods.
6. *Tax file* means a file on tax registration, on tax declaration, on tax refund, on tax exemption, on tax reduction, [or] on cancellation of tax, late payment charges and fines.
7. *Tax finalization declaration* means a determination of the amount of tax payable in the year of tax calculation or in the period from the beginning of the year of tax calculation up to the date of termination of the operation giving rise to tax obligations, or in the period from the commencement up to the date of termination of the operation giving rise to tax obligations in accordance with law.
8. *Completion of tax obligations* means payment of the full amount of tax payable plus any late payment charges and fine for breach of the law on tax.
9. *Compulsory enforcement of an administrative tax decision* means application of methods stipulated in this Law and other relevant laws to compel a taxpayer to make full payment to the State Budget of the amount of tax payable or any late payment charge or fine.

- 10.⁴ *Risk management during tax management* means the applying a system of legal provisions and technical measures to determine, assess and classify risks which may negatively impact on the effectiveness of tax management and which provide the basis for the tax management body to allocate resources in a reasonable manner and to apply effective managerial methods.
11. *Pre-agreement on method of determining taxable value* means a written agreement between the tax office and a taxpayer, or between the tax office and the taxpayer and an authority of another country or territory with which Vietnam has signed an Agreement on avoidance of double tax and avoidance of tax evasion of income tax for a specified period, containing specific provisions on the basis for assessing tax and on the method for determining taxable value or assessable value in accordance with market prices. A *pre-agreement on method of determining taxable value* should be formulated prior to the taxpayer submitting the tax declaration file.
12. *Pre-determination of code numbers, customs value and origin of import and export goods* means the customs office issues, prior to conducting customs procedures, a written document affixing the [applicable] code numbers, customs value and origin of import and export goods.

Article 6 *Taxpayers shall have the following rights:*

- 1.⁵ To receive assistance and guidelines on tax payment; and to be provided with information and documents for performance of their obligations and for exercise of their rights in relation to tax.
2. To request the tax management body to explain calculating or fixing tax; to request the customs office to predetermine the code numbers, customs value and origin of import or export goods in accordance with Government regulations prior to conducting customs procedures; and to request an evaluation body or organization to inspect quantity, quality and types of import or export goods.
3. To have their information kept confidential pursuant to law.
4. To enjoy tax incentives or tax refund in accordance with the law on tax.
5. To enter into contracts with organizations engaged in business of services for performance of their tax procedures.
6. To receive written conclusions on a tax check or inspection by the tax management body; to request explanation of any conclusion from a tax check or inspection; to reserve their opinions in records of tax examinations or inspections.
7. To be compensated pursuant to law for any loss caused by a tax management body or tax management official.
8. To request a tax management body to certify performance of their tax obligations.
9. To lodge a complaint or initiate legal action against any administrative decision or act relating to their lawful rights and interests.
10. To denounce any breach of law committed by tax officials and other organizations or individuals.

⁴ Allens footnote: Clauses 10, 11 and 12 were added by Law 21.

⁵ Allens footnote: Clauses 1 and 2 were amended by Law 21.

Article 7 *Obligations of taxpayers*

1. To conduct tax registration and to use a tax code pursuant to law.
2. To make accurate, truthful and complete tax declarations and submit a tax file on time; to be responsible before the law for the accuracy, truthfulness and completeness of their tax file.
3. To pay amounts of tax in full, on time and at the right place.
4. To abide by regulations on accounting, statistics, and management and use of invoices and source documents pursuant to law.
5. To record exactly, truthfully and completely activities giving rise to tax obligations, tax withholding, and transactions subject to declaration of information on tax.
6. To produce and deliver pursuant to law, invoices or source documents to buyers on the basis of the correct quantity, type and value of the actual payment upon sale of goods or provision of services.
7. To promptly provide accurate and complete information and documents relevant to determination of tax obligations, numbers and details of transactions on accounts opened at commercial banks or other credit institutions; to explain tax calculation, declaration or payment upon request of a tax management body.
8. To abide by decisions, notices and requests of tax management bodies and tax management officials pursuant to law.
9. To be responsible to perform tax obligations stipulated by law in a case where their legal representative or authorized representative improperly performs stipulated tax procedures on their behalf.
- 10.⁶ Taxpayers being economic organizations in a location with information technology infrastructure must conduct tax declaration, tax payment and transactions with the tax management body via electronic means in accordance with the law on electronic transactions. The Government shall provide detailed regulations for implementation of this clause.

Article 8 *Responsibilities of tax management bodies*

1. To organize tax collection pursuant to law.
- 2.⁷ To disseminate, to popularize and to provide guidelines on the law on tax; and to make public tax procedures at the headquarters of such tax management body and also on its website and on other mass media facilities.
3. Tax management bodies are responsible to explain and provide taxpayers with information relating to determination of tax obligations, and to make public the amounts of tax payable by business family households and individuals within their commune, ward or township; and customs offices are responsible to predetermine the code numbers, customs value and origin of import or export goods in accordance with Government regulations prior to conducting customs procedures.
4. To keep confidentiality of information of taxpayers in accordance with this Law.

⁶ Allens footnote: Clause 10 was added by Law 21.

⁷ Allens footnote: Clauses 2 and 3 were amended by Law 21.

5. To make tax exemption, tax reduction, cancellation of outstanding tax or , late payment charge or fines, and tax refunds in accordance with this Law and other laws on tax.
6. To certify, if so requested, the performance of tax obligations by taxpayers pursuant to law.
7. To resolve complaints and denunciations relating to the implementation of the law on tax, in accordance with their powers.
8. To deliver conclusions and records of tax checks or inspections to entities subject to such tax check or inspection if so requested.
9. To compensate taxpayers for loss in accordance with this Law.
10. To carry out inspection to determine an amount of tax payable by a taxpayer upon the request of the competent State body.

Article 9 *Powers of tax management bodies*

1. To request taxpayers to provide information and documents relating to determination of a tax obligation or numbers and details of transactions on bank accounts opened at commercial banks or other credit institutions; and to explain tax calculation, declaration and payment.
2. To request the organizations and individuals concerned to provide information and documents relating to determination of a tax obligation and to co-ordinate with [another] tax management body in implementing the law on tax.
3. To conduct tax checks and inspections.
4. To fix amounts of tax payable.
5. To carry out compulsory enforcement of administrative tax decisions.
6. To penalize breaches of the law on tax within their powers; to make public on the mass media cases of breaches of the law on tax.
7. To take preventive measures and to ensure that breaches of the law on tax are dealt with in accordance with law.
8. To authorize bodies, organizations and individuals to collect some taxes for the State budget in accordance with regulations of the Government.
- 9.⁸ The tax office applies the mechanism of pre-agreement on the method of determining taxable value with a taxpayer, and with the authority of another country or territory with which Vietnam has signed an Agreement on avoidance of double tax and avoidance of tax evasion of income tax.

Article 10 *Responsibilities of Ministry of Finance for tax management*

1. To undertake State management of taxation in accordance with law.

⁸ Allens footnote: Clause 9 was added by Law 21.

2. To direct tax management in accordance with law.
3. To direct formulation and implementation of estimated collection of revenue of the State budget.
4. To check and inspect implementation of the law on tax.
5. To deal with breaches and to resolve complaints and denunciations, within its powers, relating to implementation of the law on tax.

Article 11 *Responsibilities of all level people's councils and people's committees for tax management*

1. People's councils of all levels shall, depending on their duties and powers, make decisions on the duty to collect annual revenue of their budget and to supervise implementation of the law on tax.
2. People's committees of all levels shall, depending on their duties and powers, be responsible to:
 - (a) Direct relevant bodies in their locality to co-ordinate with tax management bodies in formulating estimated collection of revenue of the State budget and organize collection of revenue of the State budget in their locality;
 - (b) Check implementation of the law on tax;
 - (c) Deal with breaches and resolve, within their powers, complaints and denunciations relating to implementation of the law on tax.

Article 12 *Tax consultancy councils of communes, wards and townships*

1. The tax consultancy council of a commune, ward or township shall be established under a decision of the chairman of the people's committee of the district, town or provincial city upon the proposal of the director of the tax division responsible for tax management in such commune, ward or township.
2. The tax consultancy council of a commune, ward or township shall comprise:
 - (a) Representatives of the people's committee, the Fatherland Front and the police authority of the commune, ward or township;
 - (b) Representatives of business family households and individuals;
 - (c) Representative(s) of the tax division in charge of such commune, ward or township.

The chairman or deputy chairman of the people's committee of a commune, ward or township shall be the chairman of the tax consultancy council of such commune, ward or township.

3. The tax consultancy council of a commune, ward or township shall have the duty to provide the tax body with its advice on amounts of tax payable by business family households and individuals in their locality, to ensure that [its advice] is lawful, democratic, public, fair and reasonable. The advice shall be recorded in the minutes of meeting of the council.
4. The Minister of Finance shall issue regulations on operation of tax consultancy councils of communes, wards and townships.

Article 13 *Responsibilities of other State bodies for tax management*

1. Other State bodies shall be responsible to disseminate, popularize and educate about the law on tax; to co-ordinate with tax management bodies in tax management; and to create favorable conditions for taxpayers to perform their tax obligations.
2. Investigative bodies, prosecutors and courts shall, depending on their specific duties and powers, institute legal proceedings, investigate, prosecute and hear in a timely and strict manner crimes in breach of the law on tax, and shall notify to the tax management body the progress and results of settlement of such cases.

Article 14 *Responsibilities of the Vietnam Fatherland Front, socio-political-occupational organizations, social organizations and political-occupational organizations for tax management*

1. The Vietnam Fatherland Front and its member organizations shall encourage the people and shall educate their own members to strictly implement the law on tax; and to be critical of breaches of the law on tax.
2. Socio-politico-occupational organizations, social organizations and socio-occupational organizations shall co-ordinate with tax management bodies in disseminating, popularizing and educating the law on tax amongst their members.
3. The Vietnam Fatherland Front and its member organizations, socio-political-occupational organizations, social organizations and socio-occupational organizations shall co-ordinate with tax management bodies in providing information relating to tax management.

Article 15 *Responsibilities of information agencies and the press for tax management*

1. To popularize and disseminate policies and the law on tax.
2. To set a good example by being organizations and individuals who properly observe the law on tax.
3. To report and be critical of breaches of the law on tax.

Article 16 *Responsibilities of other organizations and individuals in participating in tax management*

1. To provide information relating to determination of a tax obligation upon the request of a tax management body.
2. To co-ordinate in executing decisions dealing with breaches of the law on tax.
3. To denounce breaches of the law on tax.
4. When purchasing goods or services, to request the goods seller or service provider to issue a goods sale invoice or service provision invoice or source document on the basis of the correct quality, type and value of the actual payment made.

Article 17 *International co-operation in tax management*

Tax management bodies shall, depending on their specific functions and the provisions of law and their delegated powers, be responsible to:

1. Exercise the rights, perform the obligations and ensure the interests of the Socialist Republic of Vietnam under international agreements of which the Socialist Republic of Vietnam is a member.
2. Negotiate, enter into, and organize the implementation of international bilateral agreements with tax management bodies of other countries.
3. Organize implementation, exchange of information and professional co-operation with tax management bodies of other countries and relevant international organizations.

Article 18 *Building tax managerial manpower*

1. Tax managerial manpower shall be built as an incorrupt and strong force; shall be equipped with and able to master modern techniques, and shall operate effectively and efficiently.
2. Criteria for tax managerial officials:
 - (a) Being recruited, trained and employed pursuant to the law on State employees and officials;
 - (b) Having good political quality, performing their duties in accordance with law; being honest, upright and disciplined; business and serving in a civilized, courteous and diligent manner; and strictly complying with job assignment or transfer decisions;
 - (c) Having professional qualifications; and a profound and professional knowledge ensuring successful performance of their duty of tax management.
3. Tax managerial officials shall be strictly prohibited from harassing or causing trouble to taxpayers; colluding with, taking bribes from or covering up tax evaders or criminals, or illegally using or appropriating any amount of tax.

Article 19 *Modernization of tax management work*

1. Tax management shall be modernized in terms of management methods, administrative procedures, organizational apparatus, personnel, and wide application of information technology and modern techniques on the basis of a database of accurate information on taxpayers in order to control all entities subject to tax and the bases for tax calculation; shall ensure prompt and accurate forecasts of revenue of the State budget; shall promptly detect and deal with problems and breaches of the law on tax; and shall improve the effectiveness and efficiency of tax management.
2. The State ensures investment in, and encourages organizations and individuals to participate in development of advanced technologies and technical facilities for application of methods of modern tax management; encourages organizations and individuals to take part in creating and conducting e-transactions and in tax e-management; and advances development of payment services via the system of commercial banks and other credit institutions in order to step by step limit payments made in cash of taxpayers. The Government shall promulgate policies on modernization of tax management.

Article 20 *Organizations engaged in business of services for performance of tax procedures*

1. Organizations engaged in the business of services for performance of tax procedures shall be deemed to be enterprises engaged in conditional business services, and shall be established and operate under the *Law on Enterprises* and shall carry out tax procedures pursuant to their agreements with taxpayers.

2. Organizations engaged in the business of services for performance of tax procedures shall have the following rights:
 - (a) To conduct tax procedures pursuant to their contracts with taxpayers;
 - (b) To exercise the rights of taxpayers in accordance with this Law and pursuant to their contracts with taxpayers.
3. Organizations engaged in the business of services for performance of tax procedures shall have the following obligations:
 - (a) To notify the tax management body directly responsible for management of taxpayers of the service contract for performance of tax procedures;
 - (b) To make tax declaration, payment and finalization, and to prepare application files for tax exemption, reduction or refund in accordance with this Law and other relevant laws;
 - (c) To provide tax management bodies with documents and source documents to prove the accuracy of tax declaration, payment or finalization or requests of taxpayers for tax exemption, reduction or refund.
 - (d) To be responsible before the law and to taxpayers pursuant to the agreed items of the service contract for performance of tax procedures;
 - (dd) Not to collude with any tax management official or taxpayer for the purpose of tax evasion or fraud.
4. Conditions for practising by an organization engaged in the business of services for performance of tax procedures shall comprise:
 - (a) The line of business of services for performance of tax procedures must be stated in its business registration certificate or enterprise registration certificate;
 - (b) There must be at least two employees possessing a services practising certificate for performance of tax procedures.

Any person who is issued with a services practising certificate for performance of tax procedures must possess a college or higher degree in economics, finance, accounting, audit or law; have worked for two years or more in such field; and have full capacity for civil acts, have good ethics and qualities, be honest and strictly abide by the law.

The Ministry of Finance shall issue regulations on issuance and revocation of services practising certificates for performance of tax procedures, and on management of activities of organizations engaged in the business of services for performance of tax procedures.

5. Customs agents shall, when carrying out tax procedures for import goods or export goods, exercise the rights and perform the obligations of organizations engaged in the business of services for performance of tax procedures.

CHAPTER II

Tax Registration

Article 21 *Entities subject to tax registration [shall comprise:]*

1. Organizations, business family households and individuals.
2. Individuals with income in the category of taxable personal income.
3. Organizations and individuals responsible to deduct and pay tax on behalf of others.
4. Other organizations and individuals as stipulated by law.

Article 22 *Time-limits for tax registration*

Entities subject to tax registration shall conduct tax registration within a time-limit of ten (10) business days from the date on which:

1. A business registration certificate, or licence for establishment and operation, or investment certificate is issued;
2. Business operations are commenced in the case of organizations which are not subject to business registration, or business family households and individuals who are subject to business registration but have not been issued with a business registration certificate;
3. The responsibility for withholding and paying tax on behalf of other arises;
4. A personal income tax obligation arises;
5. A claim for tax refund is made.

Article 23 *Tax registration files*

1. The tax registration file applicable to business organizations and individuals shall comprise:
 - (a) Declaration form for tax registration;
 - (b) Copy of the business registration certificate, or the licence for establishment and operation, or the investment certificate.
2. The tax registration file applicable to organizations and individuals not subject to business registration shall comprise:
 - (a) Declaration form for tax registration;
 - (b) Copy of the establishment decision or the investment decision in the case of organizations; or copy of people's identity card or passport in the case of individuals.

Article 24 *Locations for submitting tax registration files*

1. A business organization or individual shall conduct tax registration at the tax body of the locality in which the head office of such organization or individual is located.

2. An organization or individual responsible to deduct and pay tax on behalf of another shall conduct tax registration at the tax body of the locality in which the head office of such organization or individual is located.
3. An individual shall conduct tax registration at the tax body of the locality in which his or her taxable income is generated or in which his or her permanent or temporary residence is registered.

Article 25 *Responsibilities of tax bodies and tax officials to receive tax registration files*

1. Where a tax registration file is submitted directly to the tax body, a tax official shall receive and affix the seal for receiving the file, and state the time of receipt of the file and the number of documents included in the file.
2. Where a tax registration file is sent by mail, a tax official shall affix the seal for recording the date of receipt of the file and make an entry in the book of incoming official letters of the tax body.
3. Where a tax registration file is submitted by an e-transaction, the receipt, examination and acceptance of the tax registration file by the tax body shall be conducted via the electronic data processing system.
4. When any addition to a file is required, the tax body shall give notice to the taxpayer on the date of receipt of the file in the case of receipt of directly submitted files, or within three business days in the case of receipt of files sent by mail or e-transaction.

Article 26 *Issuance of tax registration certificates*

1. The tax body shall issue a tax registration certificate to the taxpayer within a time-limit of ten (10) business days from the date of receipt of the valid tax registration file.

Where a tax registration certificate is lost or damaged, the tax body shall re-issue [a certificate] within five business days from the date of receipt of the request of the taxpayer.

2. A tax registration certificate shall contain the following information:
 - (a) Name of the taxpayer;
 - (b) Tax code;
 - (c) Serial number and date (day, month, year) of the business registration certificate, or the licence for establishment and operation, or the investment certificate in the case of business organizations or individuals;
 - (d) Serial number and date (day, month, year) of the establishment decision in the case of non-business organizations, or of the people's identity card or passport in the case of non-business individuals;
 - (dd) Name of the tax body directly responsible for management;
 - (e) Date of issuance of the tax registration certificate.
3. The lending, erasure, destruction or forgery of a tax registration certificate shall be strictly prohibited.

Article 27 *Change of items in lodged tax registration files*

1. When there is any change in items in a lodged tax registration file, the taxpayer shall notify it to the tax body within a time-limit of ten (10) business days from the date of change in such items.
2. The Government shall issue detailed regulations on tax registration in the case of changes in items in [lodged] tax registration files.

Article 28 *Use of tax codes*

1. A taxpayer shall state its issued tax code on invoices, source documents and documents when conducting business transactions; when making tax declaration, tax payment, tax refund and other transactions in relation to tax; and when opening a deposit account at commercial banks or other credit institutions.
2. Tax management bodies and the State Treasury shall use the tax code for tax management and collection of taxes payable to the State budget.

Commercial banks and other credit institutions shall state the tax code in the file for opening of an account of the taxpayer and on source documents of transactions on such account.

3. A taxpayer shall be strictly prohibited from using the tax code of another taxpayer.

Article 29 *Expiry of tax codes*

1. A tax code shall be terminated in the following cases:
 - (a) The business organization or individual terminates its, his or her operation;
 - (b) The individual dies or [is declared] missing, or loses capacity for civil acts as stipulated in law.
2. In the case of termination of a tax code, the organization, individual or legal representative of the taxpayer shall give notification to the tax body directly responsible for management for carrying out procedures for termination of the tax code and making public the termination of the tax code.
3. The tax body shall make public the termination of a tax code. Such tax code must not be used in economic transactions from the date on which the tax body makes public the termination of the tax code.

CHAPTER III

Tax Declaration, and Tax Calculation

Article 30 *Principles of tax declaration and tax calculation*

1. Taxpayers shall fill in accurately, honestly and completely all items of the tax declaration form stipulated by the Ministry of Finance, and submit all types of source documents or documents stipulated for a tax declaration file to the tax management body.
2. Taxpayers shall personally calculate the amount of tax payable, unless the tax calculation is conducted by a tax management body pursuant to the regulations of the Government.

- 3.⁹ The mechanism of pre-agreement to determine the method of determining taxable value shall apply upon request by the taxpayer and agreement between the tax office and the taxpayer in accordance with unilateral agreements, bilateral agreements and multi-lateral agreements between the tax office, the taxpayer and tax offices of related countries or territories.

The Government shall make detailed provisions on this clause.

Article 31 *Tax declaration files*

1. In the case of taxes which are declared and paid on a monthly basis, the tax declaration file shall comprise:
- (a) Monthly tax declaration;
 - (b) List of invoices for goods and services sold;
 - (c) List of invoices for goods and services purchased;
 - (d) Other documents relating to the amount of tax payable.
- 1a.¹⁰ In the case of taxes which are declared and paid on a quarterly basis, the tax declaration file shall comprise:
- (a) Quarterly tax declaration;
 - (b) List of invoices for goods and services sold (if any);
 - (c) List of invoices for goods and services purchased (if any);
 - (d) Other documents relating to the amount of tax payable.

The Government shall stipulate what taxes are subject to monthly, quarterly or annual declaration, quarterly provisional tax declaration, declaration upon a tax obligation arising, or tax finalization declaration, and the criteria to determine which tax payers to make quarterly tax declaration, and tax declaration files applicable to each specific case.

2. In the case of taxes subject to the annual tax period, tax declaration files shall consist of:
- (a) Annual tax declaration files, comprising the annual tax declaration and other documents relating to determination of an amount of tax payable;
 - (b) Quarterly provisional tax declaration files, comprising the provisional tax declarations and other documents relating to determination of the provisional tax amounts;
 - (c) Year-end tax finalization declaration documents, comprising the annual tax finalization declaration, annual financial statements and other documents relating to the tax finalization.

⁹ Allens footnote: Clause 3 was added by Law 21.

¹⁰ Allens footnote: Clause 1a was added by Law 21.

3. In the case of taxes which are declared and paid upon each tax obligation arising, the tax declaration file shall comprise:
 - (a) Tax declaration;
 - (b) Invoices, contracts and other source documents pursuant to law relating to the tax obligation.
4. In the case of import or export goods, the customs file may be used as the tax declaration file.
5. In the case of termination of operation, termination of a contract, or conversion of form of ownership of an enterprise or re-organization of an enterprise, the tax declaration file shall comprise:
 - (a) Tax finalization declaration;
 - (b) Financial statements as at the date of termination of the operation or of the contract, or conversion of the form of ownership of the enterprise or re-organization of the enterprise;
 - (c) Other documents relating to tax finalization.
- 6.¹¹ The Government shall stipulate what taxes are subject to monthly or annual declaration, quarterly provisional tax declaration, declaration upon a tax obligation arising, or tax finalization declaration, and the tax declaration files applicable to each specific case.

Article 32 *Deadline and location for submitting tax declaration files*

- 1.¹² In the case of taxes which are declared on a monthly or quarterly basis:
 - (a) No later than the twentieth day of the month following the month in which the tax obligation arose, if tax is declared and paid on a monthly basis;
 - (b) No later than the thirtieth day of the quarter following the quarter in which the tax obligation arose, if tax is declared and paid on a quarterly basis;
2. In the case of taxes subject to the annual tax period:
 - (a) No later than the thirtieth day of the first month of the calendar year or the fiscal year in respect of annual tax declaration files;

Time-limits for tax declaration in respect of non-agricultural land use tax and land rent shall be in accordance with the laws on non-agricultural land use tax and the laws on land rent;
 - (b) No later than the thirtieth day of the quarter following the quarter in which the tax obligation arose for quarterly provisional tax declaration files;
 - (c) No later than the ninetieth day of the final day of the calendar year or the fiscal year for annual tax finalization files.
3. No later than the tenth day from the day on which the tax obligation arises for taxes which are declared and paid upon a tax obligation arising.

¹¹ Allens footnote: Clause 6 was amended by Law 21.

¹² Allens footnote: Clauses 1, 2, 3 and 6 were amended by Law 21.

Time-limits for submission of tax declaration files for proceeds from land and registration charges shall be in accordance with regulations of the Government and relevant laws..

4. In the case of import or export goods, the time-limit for submission of a tax declaration file shall be the time-limit for submission of a customs declaration:
 - (a) In the case of import goods, the tax declaration file shall be submitted before the date on which goods arrive at a border gate or within a time-limit of thirty (30) days from the date on which goods arrive at a border gate. Customs declarations shall be valid for carrying out tax procedures for a period of fifteen (15) days from the date of registration.
 - (b) In the case of export goods, the tax declaration file shall be submitted no later than eight hours before the means of transport leaves the country. Customs declarations shall be valid for carrying out tax procedures for fifteen (15) days from their date of registration.
 - (c) In the case of dutiable accompanying luggage of persons on entry or exit, the customs declaration shall be submitted when the means of transport arrives at the border gate, or before the carrier terminates performance of the procedures for embarkation of passengers onto means of transport on exit. Luggage sent before or after the trip of persons on entry shall be subject to the provisions of paragraph (a) of this clause.
5. No later than the forty fifth day after the date of termination of the operation or of the contract, conversion of the form of ownership of the enterprise or re-organization of the enterprise.
6. Locations for submitting tax declaration files are provided as follows:
 - (a) Taxpayers submit tax declaration files at the directly managing tax office;
 - (b) Where tax declaration files are submitted under the one-stop inter-service mechanism, the location for submission of tax declaration files shall be as provided by such mechanism;
 - (c) Locations for submitting tax declaration files of import or export goods shall be as provided by the *Law on Customs*;
 - (d) The Government shall provide for the location for submission of tax declaration files for the cases of taxpayers with many business or production activities; taxpayers conducting business or production activities in many locations; taxpayers having tax obligations arising with respect to the types of taxes declared and paid for each tax obligation arising; taxpayers having tax obligations arising with respect to proceeds from land proceeds; taxpayers making tax declarations by electronic means and other necessary cases..

Article 33 *Extension of time for submitting tax declaration files*

1. Taxpayers who are unable to submit their tax declaration file on time due to a natural calamity, fire or contingent accident shall be entitled to an extension of the period for submitting the tax declaration file to be granted by the head of the tax body directly responsible for management.
- 2.¹³ The extension shall not exceed thirty (30) days in the case of submission of monthly, quarterly or annual tax declaration files, provisional tax declaration files or tax declaration files upon each tax

¹³ Allens footnote: Clauses 2 and 4 were amended by Law 21.

obligation arising; and sixty (60) days in the case of submission of tax finalization declaration files, as from the final day of the time-limit for submission of tax declaration files.

3. Taxpayers shall send a request in writing for extension of the time-limit for submitting a tax declaration file to the tax body before expiration of the time-limit for submitting such file, specifying the reasons for the request for extension with certification by the people's committee or the police authority of the commune, ward or township of the event specified in clause 1 of this article having occurred.
4. Within three business days from the date of receipt of a request in writing for extension of the time-limit for submitting a tax declaration file, the tax body must reply to the taxpayer in writing on whether or not [such request for] extension is accepted.

Article 34 *Supplementary tax declaration*

1. Before a tax body announces its decision on a tax check or tax inspection at the head office of a taxpayer, if the taxpayer detects that the submitted tax declaration file contains an error which causes an effect on the amount of tax payable, such taxpayer may make an additional declaration to the [submitted] tax declaration file.
2. In the case of import or export goods, an additional declaration to a tax declaration file may be made in the following cases:
 - (a) If before the customs official carries out actual inspection of goods or makes a decision on exemption from actual inspection of goods, the person making the customs declaration detects an error in the submitted tax declaration file;
 - (b) The taxpayer itself detects errors which affect the amount of tax payable within a period of sixty (60) days from the date of registration of the customs declaration but before the customs official carries out a tax check or tax inspection at the head office of the taxpayer.

Article 35 *Responsibilities of tax management bodies and tax management officials to receive tax declaration files*

1. Where a tax declaration file is submitted directly to the tax body, a tax official shall receive and affix the seal for receiving the file, and state the time of receipt of the file and the number of documents included in the file.

Where a tax declaration file for import or export goods is submitted directly to the customs office, a customs official shall receive, check and register such tax declaration file; and if registration of the file is refused, the customs official shall promptly notify the taxpayer of the reasons.

2. Where a tax declaration file is sent by mail, a tax official shall affix the seal for recording the date of receipt of the file and make an entry in the book of incoming official letters of the tax body.
3. Where a tax declaration file is submitted by way of an e-transaction, the receipt, examination and acceptance of the tax declaration file by the tax management body shall be conducted via the electronic data processing system.
4. When a tax declaration file is not complete as stipulated, within three business days from the date of receipt of the file, the tax body shall give notification in writing to the taxpayer for finalization of the file.

CHAPTER III

Fixing Tax Amounts Payable

Article 36 *Principles of fixing tax amounts payable*

1. Tax amounts payable shall be fixed in an objective and just manner and in compliance with the law on tax.
2. Tax management bodies shall fix a tax amount payable, or each factor relating to determination of a tax amount payable.

Article 37 *Fixing tax amounts payable by tax payers paying tax by the method of declaration, in cases of breach of the law on tax*

1. A taxpayer paying tax by the method of declaration shall be subject to a fixed tax amount payable in the following cases:
 - (a) Failing to conduct tax registration;
 - (b) Failing to submit a tax declaration file; submitting a tax declaration file more than ten (10) days after the deadline for submitting same or from the date of expiration of the extended period for submitting same;
 - (c) Failing to make a tax declaration, or failing to lodge additional documents for the tax file upon request of the tax body, or making a tax declaration which is inaccurate or untruthful or incomplete in terms of bases for tax calculation;
 - (d) Failing to reflect or reflecting inadequately, untruthfully and inaccurately figures in books of account for determining a tax obligation;
 - (dd) Failing to produce, within the stipulated time-limit, books of account, invoices, source documents and necessary documents relating to determination of a tax amount payable;
 - (e) Failing to carry out a purchase, sale, exchange, and cost accounting of a value of goods or services in accordance with the common market value of the transaction;
 - (g) There are indications that the taxpayer hid or dispersed its, his or her assets in order to shirk tax obligations.
2. Bases for fixing a tax amount payable shall comprise:
 - (a) Database of the tax body;
 - (b) Comparison with the tax amount payable by business establishments conducting business in the same goods, in the same line of business, [or] on the same business scale;
 - (c) Documents and results of a check or inspection which still have effect.
3. The duty amount payable on import or export goods shall be fixed in accordance with article 39 of this Law.

Article 38 *Determining tax amounts payable by business family households and business individuals paying tax by the method of tax on a fixed turnover*

1. The tax body shall determine a tax amount payable by the method of taxing on a fixed turnover (hereinafter referred to as the fixed tax amount) for the following cases:
 - (a) A business family household or individual fails to implement, or implements incompletely, the regulations on accounting, invoices and source documents;
 - (b) A business family household or individual fails to conduct business registration or tax registration.
2. The tax body shall determine a fixed tax amount payable on the basis of written declarations of the business family household or individual, the database of the tax body and the opinion of the tax consultancy council of the commune, ward or township.
3. The fixed tax amount payable shall be calculated for the calendar year and shall be made public in the relevant commune, ward or township. Where a line of business or business scale is changed, the taxpayer shall make a declaration with the tax body in order to adjust the fixed tax amount payable.
4. The Ministry of Finance shall issue specific guidelines for determining fixed tax amounts payable by business family households or individuals.

Article 39 *Fixing duty amount payable on import or export goods*

1. The customs office shall fix a duty amount payable on import or export goods in the following cases:
 - (a) A taxpayer uses unlawful documents to make a declaration of the bases for tax calculation, to calculate and declare a tax amount payable; or fails to declare, or declares incompletely and inaccurately, the bases for tax calculation to serve tax calculation;
 - (b) A taxpayer refuses to provide, delays or prolongs beyond the stipulated deadline the provision of relevant documents to the customs office for accurate calculation of a duty amount payable;
 - (c) The customs office has sufficient evidence that the declared value is not the actual value of the transaction;
 - (d) A taxpayer is unable to personally calculate the duty amount payable.
2. The customs office shall fix a duty amount payable on the basis of goods actually imported or exported; the bases for tax calculation and method of calculating tax and other relevant documents and information.

Article 40 *Responsibilities of tax management bodies for fixing tax amounts payable*

1. The tax management body shall notify the taxpayer in writing of the reasons for fixing a tax amount payable, the bases for fixing the tax amount payable, the fixed tax amount payable, and the time-limit for actually making the tax payment.
2. Where the tax amount as fixed by the tax management body is larger than the tax amount payable, the tax management body shall refund any excess of tax paid and pay compensation for any loss pursuant to a decision of the competent State body on resolution of a complaint, or pursuant to the judgment or decision of a court.

Article 41 *Responsibilities of taxpayers for paying amounts of tax as fixed*

A taxpayer shall pay the amount of tax as fixed pursuant to the notice of the tax management body. In a case of disagreement about the amount of tax as fixed by the tax management body, the taxpayer shall still pay such amount of tax, but shall be entitled to request the tax management body to explain, or to lodge a complaint or initiate a court action regarding such fixing of a tax amount payable.

CHAPTER IV

Tax Payment

Article 42¹⁴ *Time-limits for tax payment*

1. Where a taxpayer calculates an amount of tax payable, the time-limit for tax payment shall be the last day of the time-limit for submitting a tax declaration file.
2. Where the tax office calculates or fixes an amount of tax payable, the time-limit for tax payment shall be as stated in the notice sent by the tax office.

Time-limits for submission of tax declaration files for proceeds from land and registration charges shall be in accordance with Government regulations and relevant laws.

3. The time-limit for duty payment on import or export goods shall be as follows::
 - (a) In the case of import goods being supplies and raw materials for production of goods for export, the maximum time-limit for duty payment shall be two hundred and seventy five (275) days from the date of registration of the customs declaration if the enterprise satisfies all the following conditions:
 - Having a production workshop for export goods in the territory of Vietnam;
 - Having conducted import or export activities for at least two consecutive years calculated up to the date of registration of the customs declaration, and without having committed any trade fraud or tax evasion, or owing overdue taxes, late payment charges or fines;
 - Complying with the laws on accounting and statistics;
 - Making payments via banks in accordance with law;

In the case of failure to satisfy the above conditions but there is a guarantee for the duty amount payable by a credit institution, the time-limit for duty payment shall be subject to the term of the guarantee, but shall not exceed two hundred and seventy five (275) days from the date of registration of the customs declaration and no late payment charge shall be payable during the guarantee period.

In the case of failure to satisfy the above conditions or if there is no guarantee by a credit institution, duty payment must be made before customs clearance or goods release;

¹⁴ Allens footnote: Article 42 was amended by Law 21.

- (b) In the case of goods traded by way of temporary import for re-export, duty must be paid before the completion of the customs procedures for temporary import of goods.

Where a credit institution provides a guarantee for the duty amount payable, the time-limit for duty payment shall be subject to the term of the guarantee but shall not exceed fifteen (15) days from the final date of the time-limit for temporary import for re-export, and no late payment charges shall be payable during the guarantee period;

- (c) Duty must be paid for goods which do not fall under clauses (a) and (b) of this clause before customs clearance or goods release.

Where a credit institution provides a guarantee for the duty amount payable, customs clearance or goods release shall be permitted, but a late payment charge must be paid [for the period] from the date of customs clearance or goods release to the date of duty payment as provided in article 106 of this Law. The guarantee period shall not exceed thirty (30) days from the date of registration of the customs declaration;

- (d) In the cases where there is a guarantee by a credit institution but the taxpayer fails to make duty payment and a late payment charge (if any) within the period of the guarantee, the guarantor organization shall be liable to pay in full the duty amount and any late payment charge on behalf of the taxpayer.

Article 43 *Currency for tax payment*

Currency for tax payment shall be Vietnamese dong, except for tax payment in a foreign currency in accordance with regulations of the Government.

Article 44 *Locations for and forms of tax payment*

1. Taxpayers shall make tax payment into the State budget:
 - (a) At the State Treasury;
 - (b) At the tax management body which receives the tax declaration file;
 - (c) Via an organization authorized by the tax management body to collect tax;
 - (d) Via a commercial bank or other credit institution or service organization pursuant to law.
2. The State Treasury shall be responsible to arrange locations, facilities and State employees to collect tax to facilitate taxpayers in making prompt tax payment into the State budget.
3. Any body or organization which receives or withholds a tax amount shall issue a tax receipt to the taxpayer.
4. Organizations receiving a tax amount shall transfer such amount into the State budget within eight business hours from the time of collection of such tax amount from the taxpayer.

In the case of collection of tax by cash in remote or distant areas, islands and areas with difficult traveling conditions, the time-limit for transfer of collected tax amounts into the State budget shall be as stipulated by the Ministry of Finance.

Article 45¹⁵ *Priority order for payment of taxes, late payment charges and fines*

Where a taxpayer concurrently has a tax debt, tax arrears, an amount of tax payable, a late payment charge and fines, the payment of these amounts shall be made in the following order:

1. In respect of taxes under the management of tax bodies:
 - (a) Tax debt;
 - (b) Tax arrears;
 - (c) Late payment charge;
 - (d) Tax payable;
 - (dd) Fines;
2. In respect of taxes under the management of customs bodies:
 - (a) Overdue tax debts subject to enforcement measures;
 - (b) Late payment charges subject to enforcement measures;
 - (c) Overdue tax debts not yet subject to enforcement measures;
 - (d) Late payment charges not yet subject to enforcement measures;
 - (dd) Taxes payable;
 - (e) Fines.

Article 46 *Determining the date on which tax was paid*

The date on which tax was paid shall be determined as the date on which:

1. The State Treasury, a commercial bank, another credit institution or service organization certified the receipt for tax payment of the taxpayer, in the case of tax payment by telegraphic transfer.
2. The State Treasury, a tax management body or an organization authorized by the tax management body to collect tax issues a tax receipt, in the case of tax payment by cash.

Article 47¹⁶ *Dealing with excess amounts of tax, late payment charge or fee paid*

1. A taxpayer which have paid an amount of tax, late payment charge or fine which is larger than the amount of tax, late payment charge or fine payable for each type of tax shall, within ten years from the date of payment to the State Budget, be permitted to offset the excess amount of tax, late payment charge or fine against any outstanding amount of tax, late payment charge or fine, including offsetting among different types of tax; or to deduct [such excess amount] from the amount of tax, late payment charge or fine payable of the subsequent tax payment; or to be refunded the excess

¹⁵ Allens footnote: Article 45 was amended by Law 21.

¹⁶ Allens footnote: Article 47 was amended by Law 21.

amount of tax, late payment charge or fine when the taxpayer no longer has any outstanding amount of tax, late payment charge or fine.

2. Where a taxpayer requests a refund of the excess amount of tax, late payment charge or fine, the tax management office must issue a decision on refunding the excess amount of tax, late payment charge or fine or a written reply specifying the reason for not refunding within a time-limit of five working days from the date of receipt of the written request.

Article 48 *Tax payment pending resolution of complaint or court action*

1. Pending resolution of a complaint or court action taken by a taxpayer about a tax amount calculated or fixed by the tax management body, the taxpayer must still pay in full such amount of tax, unless the competent State body makes a decision to temporarily suspend the decision of the tax management body calculating or fixing tax.
2. Where the amount of tax paid is larger than the amount of tax which is determined pursuant to the decision of the competent body on resolution of a complaint or pursuant to the judgment or decision of the court, the taxpayer shall be entitled to a refund of the excess amount of tax paid and to payment of interest on the excess amount of tax paid.

Article 49 *Extension of time-limit for tax payment*

- 1.¹⁷ The extension of a time-limit for tax payment shall be considered on the basis of the request from the taxpayer in one of the following cases:
 - (a) [The taxpayer] suffers material loss, directly affecting its production or business as a result of a natural calamity, fire or sudden accident;
 - (b) [The taxpayer] has to suspend its operation due to removal of the business or production establishment at the request of a competent State authority, affecting the business or production result;
 - (c) [The taxpayer] has not been paid the investment capital for capital construction already recorded in the State Budget plan;
 - (d) [The taxpayer] is unable to pay tax on time because of other exceptional difficulties as stipulated in Government regulations.
2. A taxpayer entitled to an extension of the time-limit for tax payment as stipulated in clause 1 of this article shall enjoy an extension of the time-limit for payment of part or whole of the amount of tax payable.
3. An extension of the time-limit for tax payment shall not exceed two years from the date of expiry of the time-limit for tax payment stipulated in article 42 of this Law.

The Government shall specify the extension of a time-limit for tax payment on a case-by-case basis.

4. A taxpayer shall not be subject to and shall not be required to pay any late payment charge on the outstanding amount of tax during the extension of the time-limit for tax payment.

¹⁷ Allens footnote: Clause 1 was amended by Law 21.

Article 50¹⁸ *Authority to grant extension of time-limit for tax payment*

1. The Government shall grant extension of a time-limit for tax payment where it does not result in adjustment of the State Budget revenue plan already decided by the National Assembly.
2. The head of the tax management body directly responsible for management shall, on the basis of the application file for extension of the time-limit for tax payment, make a decision on an amount of tax for which the time-limit for payment is extended and on the extension of the time-limit for tax payment.

Article 51 *Application files for extension of time-limit for tax payment*

1. A taxpayer entitled to an extension of the time-limit for tax payment stipulated in article 49 of this Law shall prepare and submit an application file for extension of time-limit for tax payment to the tax management body directly responsible for management.
2. An application file for extension of time-limit for tax payment shall comprise:
 - (a) Written application for extension of time-limit for tax payment, specifying the reason, the amount of tax payable and the time-limit for payment;
 - (b) Documents evidencing the reason for extension of time-limit for tax payment;
 - (c) Report on amount of tax payable and outstanding amount of tax.

Article 52 *Receipt and processing of application files for extension of time-limit for tax payment*

1. Where an application file for extension of time-limit for tax payment is submitted directly to the tax management body, a tax management official shall receive and affix the seal for receiving the file, and state the time of receipt of the file and the number of documents included in the file.
2. Where an application file for extension of time-limit for tax payment is sent by mail, a tax management official shall affix the seal for recording the date of receipt of the file and make an entry in the book of incoming official letters of the tax management body.
3. Where an application file for extension of time-limit for tax payment is submitted by e-transaction, the receipt, examination and acceptance of the application file for extension of time-limit for tax payment by the tax management body shall be conducted via the electronic data processing system.
4. The tax management body must, within ten (10) business days from the date of receipt of the complete file, notify the taxpayer in writing of permission granted to extend the time-limit for tax payment.

When a tax declaration file is incomplete, within three business days from the date of receipt of the file, the tax management body shall give a notice in writing to the taxpayer to finalize the file. The taxpayer shall finalize the file within five business days from the date of receipt of the notice to add to the file from the tax management body. If a taxpayer fails to finalize the file as requested by the tax management body, then the time-limit for tax payment shall not be extended in accordance with this clause.

¹⁸ Allens footnote: Article 50 was amended by Law 21.

CHAPTER VI

Responsibilities to Complete Tax Payment

Article 53 *Completion of tax payment on exit from Vietnam*

Vietnamese who leave the country for settlement abroad, and overseas Vietnamese and foreigners before exit from Vietnam, shall perform their obligation to complete tax payment. The immigration authority shall be responsible to stop the exit of any individual who fails to perform his or her obligation to complete tax payment pursuant to a notice from the tax management body.

Article 54 *Completion of tax payment in cases of dissolution, bankruptcy and termination of operation*

- 1.¹⁹ The obligation of a dissolved enterprise to complete tax payment shall be performed in accordance with the laws on enterprises, credit institutions, insurance business and other relevant laws.
2. The obligation of a bankrupt enterprise to complete tax payment shall be performed in accordance with the order and procedures stipulated in the *Law on Bankruptcy*.
3. Where an enterprise terminates its operation but has not performed its obligation to complete tax payment, the owner of the enterprise shall be responsible for payment of any outstanding tax.
4. Where family households or individuals terminate their, his or her business operation but have not performed the obligation to complete tax payment, the owner of the family household or the individual concerned shall be responsible for tax payment.

Article 55 *Completion of tax payment in case of enterprise reorganization*

1. Any enterprise to be divided shall perform its obligation to complete tax payment before division. Where an enterprise to be divided fails to perform its obligation to complete tax payment, the new enterprises which are established from the division shall be responsible to perform the obligation to complete tax payment.
2. Any enterprise to be demerged, consolidated or merged shall be responsible to perform its obligation to complete tax payment before demerger, consolidation or merger; where it has not performed the obligation to complete tax payment, the demerged enterprise and the new enterprises established from the demerged, consolidated or merging enterprise shall be responsible to perform the obligation to complete tax payment.
3. Any enterprise subject to conversion of ownership shall be responsible to perform its obligation to complete tax payment before conversion; where an enterprise to be converted has not completed its obligation to complete tax payment, the new enterprise which is established after the conversion shall be responsible to perform the obligation to complete tax payment.
4. The reorganization of an enterprise shall not change the time-limit for tax payment of the reorganized enterprise. Where the reorganized enterprise or new enterprise which is established fails to make in

¹⁹ Allens footnote: Clause 1 was amended by Law 21.

full tax payment within the stipulated time-limit for tax payment, it shall be penalized in accordance with law.

Article 56 *Inheritance of tax obligations from a deceased person, from a person who has lost civil capacity or from a person who is declared missing as stipulated by civil law*

1. The tax obligation of a person who is deemed deceased shall be completed by his or her heirs from the estate bequeathed by the deceased person or from the share of the estate distributed to an heir at the time of acceptance of an inheritance. Where there are no heirs or all heirs at all levels disclaim the inheritance, the tax obligation of the deceased person shall be completed in accordance with civil law.
2. The tax obligation of a person who is declared missing or who has lost the capacity for civil acts pursuant to law shall be completed by the person managing the property of such person who is missing or has who lost the capacity for civil acts and from the property of such latter person.
3. When the competent State body revokes a decision declaring a person deceased, missing or having lost the capacity for civil acts, any outstanding amount of tax which was canceled in accordance with article 65 of this Law shall be restored and no late payment charge shall be imposed for the period such person was deemed deceased, missing or having lost the capacity for civil acts.

CHAPTER VII

Tax Refund

Article 57 *Cases eligible for tax refund*

Tax management bodies shall make a tax refund in the following cases:

1. An organization or individual is eligible for a refund of value added tax in accordance with the *Law on Value Added Tax*.
2. An organization or individual is eligible for a refund of import or export duty in accordance with the *Law on Export and Import Duties*.
3. An individual is eligible for a refund of personal income tax in accordance with the law on personal income tax.
4. A business organization or individual is eligible for a refund of special sales tax in accordance with the *Law on Special Sales Tax*.
5. An organization or individual paid an amount of another type of tax into the State budget in excess of the amount of tax payable.

Article 58²⁰ *Application files for tax refund*

1. An application file for tax refund shall comprise:

²⁰ Allens footnote: Article 58 was amended by Law 21.

- (a) Written application for tax refund;
 - (b) Other documents relating to the claim for tax refund.
2. The application file for tax refund shall be submitted in one set to the tax management body directly responsible for management or to the customs office authorized to make the tax refund.

Article 59 *Responsibilities of tax management bodies and tax officials to receive application files for tax refund*

1. Where an application file for tax refund is submitted directly to the tax management body, a tax official shall receive and affix the seal for receiving the file, and state the time of receipt of the file and the number of documents included in the file.
2. Where an application file for tax refund is sent by mail, a tax official shall affix the seal for recording the date of receipt of the file and make an entry in the book of incoming official letters of the tax management body.
3. Where an application file for tax refund is submitted by way of an e-transaction, the receipt, examination and acceptance of the application file for tax refund by the tax management body shall be conducted via the electronic data processing system.
4. When an application file for tax refund is incomplete, within three business days from the date of receipt of the file, the tax management body shall give notice to the taxpayer to finalize the file.

Article 60²¹ *Responsibilities of tax management bodies to resolve application files for tax refund*

1. Application files for tax refund shall be classified as follows:
 - (a) Application files eligible for tax refund before check shall be the files of taxpayers who have had a record of properly observing the law on tax and whose transactions were paid for via banks in accordance with law;
 - (b) Application files shall be checked before tax refund where:
 - [[The taxpayer requests] tax refund in accordance with international treaties to which the Socialist Republic of Vietnam is a member;
 - The taxpayer requests tax refund for the first time, except for requests for income tax refund;
 - The taxpayer requests tax refund within two years from the time of being dealt with for tax evasion or tax fraud;
 - [The taxpayer requests tax refund for] goods and services the payment for which is not made via banks in accordance with law;

²¹ Allens footnote: Article 60 was amended by Law 21.

- [The taxpayer requests tax refund for] enterprises which are merged, divided, dissolved, or bankrupt, which change the form of ownership or terminate operations; or State owned enterprises which are allocated, disposed of, leased out or contracted out;
 - The taxpayer fails, within the time-limit notified in writing by the tax management body, to explain or supplement the application file for tax refund; or to prove by its explanation or supplemented documents that the declared amount of tax is correct;
 - [The taxpayer requests tax refund for] import goods which are to be checked before tax refund in accordance with Government regulations.
2. In the case of application files eligible for tax refund before check, the tax management body must, no later than six business days from the date of receipt of the complete application file for tax refund, make a decision on tax refund as per the request of the taxpayer; or notify the taxpayer of the transfer of the file to be checked before tax refund or of the reason for refusal to refund tax where the conditions for tax refund before check are not satisfied.
3. The time-limit for check after tax refund for application files eligible for tax refund before check is provided as follows:
- (a) The check after tax refund must be carried out within one year from the date of the decision on tax refund in the following cases:
- A business establishment has declared losses in two consecutive years or has an amount of losses exceeding equity;
 - A business establishment is eligible for tax refund from real estate business or commercial or service business;
 - A business establishment has changed its head office twice or more within the twelve (12) months preceding the date of the decision on tax refund;
 - A business establishment has an abnormal change in the taxable revenue and the amount of tax to be refunded within a period of twelve months preceding the date of the decision on tax refund;
- (b) In cases not covered by paragraph (a) of this clause, the check after tax refund shall be carried out in accordance with the risk management principle within a time-limit of ten (10) years from the date of the decision on tax refund.
4. In the case of application files subject to check before tax refund, the tax management body shall, no later than forty (40) days from the date of receipt of the complete application file for tax refund, make a decision on tax refund or notify the taxpayer of the reason for refusal to refund tax.
5. Where the tax refund is not decided within the time-limits stipulated in clauses 2 and 4 of this article due to the fault of the tax management body, the tax management body shall, in addition to paying the amount of tax refund, pay interest thereon pursuant to Government regulations.

CHAPTER VIII

Procedures for Tax Exemption, for Tax Reduction, and for Cancellation of Outstanding Taxes and Fines

Section 1

Procedures for Tax Exemption and Tax Reduction

Article 61 *Tax exemption and tax reduction*

Tax management bodies shall grant tax exemption or tax reduction for the cases eligible for tax exemption or tax reduction as stipulated in legal instruments on tax.

Article 62 *Application files for tax exemption and tax reduction*

1. Where taxpayers themselves determine an amount of tax to be exempted or reduced, an application file for tax exemption or reduction shall comprise:
 - (a) Tax declaration;
 - (b) Documents relating to determination of the amount of tax to be exempted or reduced.
2. Where the tax management body makes a decision on tax exemption or tax reduction, an application file for tax exemption or tax reduction shall comprise:
 - (a) Application for tax exemption or tax reduction, specifying the tax for which exemption or reduction is requested; reasons for tax exemption or tax reduction; and the amount of tax to be exempted or reduced;
 - (b) Documents relating to determination of the amount of tax to be exempted or reduced.
3. The Government shall specify cases in which taxpayers shall themselves determine an amount of tax to be exempted or reduced; and cases in which tax management bodies shall make a decision on tax exemption or reduction.

Article 63 *Submission and receipt of application files for tax exemption and tax reduction*

1. Where a taxpayer itself/himself/herself determines the amount of tax to be exempted or reduced, the submission and receipt of an application file for tax exemption or tax reduction shall be conducted concurrently with the declaration, submission and receipt of the tax declaration file stipulated in Chapter III of this Law.
2. Where tax management bodies make a decision on tax exemption or reduction pursuant to law, the submission and receipt of an application file for tax exemption or tax reduction shall be stipulated as follows:
 - (a) In the case of import or export duties and other taxes relating to import or export goods, an application file shall be submitted to the customs office authorized to deal with same;
 - (b) In the case of other taxes, an application file shall be submitted to the tax body directly responsible for management.

3. The receipt of application files for tax exemption or tax reduction shall be regulated as follows:
- (a) Where an application file for tax exemption or tax reduction is submitted directly to the tax management body, a tax official shall receive and affix the seal for receiving the file, and state the time of receipt of the file and the number of documents included in the file.
 - (b) Where an application file for tax exemption or tax reduction is sent by mail, a tax official shall affix the seal for recording the date of receipt of the file and make an entry in the book of incoming official letters of the tax management body.
 - (c) Where an application file for tax exemption or tax reduction is submitted by way of an e-transaction, the receipt, examination and acceptance of the application file for tax refund by the tax management body shall be conducted via the electronic data processing system.
 - (d) When an application file for tax exemption or tax reduction is incomplete, within three business days from the date of receipt of the file, the tax management body shall give notice to the taxpayer to finalize the file.

Article 64 *Time-limits for resolution of application files for tax exemption and tax reduction when the tax management body issues a decision on amount of tax exempted or reduced*

- 1. The tax management body shall, within thirty (30) days from the date of receipt of a complete file, make a decision on tax exemption or tax reduction or notify the taxpayer of the reasons for refusal of its, his or her application file for tax exemption or reduction.
- 2.²² When an actual check is required to obtain sufficient grounds for dealing with an application file for tax exemption or tax reduction, the tax management body shall be responsible for making a decision on tax exemption or tax reduction or notifying the taxpayer in writing of the reason for refusal of tax exemption or tax reduction within the time-limit of sixty (60) days from the date of receipt of the complete file.

Section 2

Cancellation of Outstanding Taxes and Fines

Article 65 *Cases eligible for cancellation of outstanding taxes , late payment charges and fines [shall comprise:]*

- 1. Enterprises which have been declared bankrupt and made payments pursuant to the law on bankruptcy but there are no assets for payment of taxes or fines.
- 2. Individuals who are deemed deceased, missing or as having lost the capacity for civil acts pursuant to law and have no assets for payment of outstanding taxes, late payment charges or fines.
- 3.²³ Outstanding taxes, late payment charges and fines of taxpayers not covered by clauses 1 and 2 of this article to which the tax management body has applied all methods of compulsory enforcement of administrative tax decisions provided in article 93.1 of this Law, and which have been overdue for more than ten (10) years from the final date of the tax payment period, but are not recoverable.

²² Allens footnote: Clause 2 was amended by Law 21.

²³ Allens footnote: Clause 3 was added by Law 21.

Article 66 *Files for cancellation of outstanding taxes, late payment charges and fines*

The file for cancellation of an outstanding tax or fine shall comprise:

1. Proposal for cancellation of an outstanding tax, late payment charge or fine from the tax management body directly responsible for managing the taxpayer subject to cancellation of the outstanding tax or fine.
- 2.²⁴ The decision declaring the enterprise bankrupt in the case of enterprises declared bankrupt.
3. Documents relating to the proposal for cancellation of an outstanding tax, late payment charge or fine.

Article 67²⁵ *Authority for cancellation of outstanding taxes, late payment charges and fines*

1. The chairman of the people's committee of a province or city under central authority shall cancel outstanding taxes, late payment charges or fines for taxpayers being enterprises declared bankrupt as provided in article 65.1, individuals provided in article 65.2 and 65.3, and households provided in article 65.3 of this Law.
2. The authority for cancellation of outstanding debts for taxpayers not provided in clause 1 of this article shall be as follows:
 - (a) The Prime Minister of the Government shall cancel outstanding taxes, late payment charges or fines of taxpayers of ten billion dong or over;
 - (b) The Minister of Finance shall cancel outstanding taxes, late payment charges or fines of taxpayers of five billion dong to under ten billion dong;
 - (c) The General Director of Taxation and the General Director of Customs shall cancel outstanding taxes, late payment charges or fines of taxpayers of under five billion dong.
3. The Government shall report the amount of taxes, late payment charges and fines cancelled on an annual basis to the National Assembly upon submission of the State Budget finalization to the National Assembly for approval.
4. The Government shall provide for the organization of debt cancellation.

Article 68 *Responsibilities to receive and resolve files for cancellation of outstanding taxes, late payment charges and fines*

1. The tax management body directly responsible for management shall prepare a file for cancellation of an outstanding tax or fine and submit it to its superior tax management body.
2. When a file for cancellation of an outstanding tax, late payment charge or fine is incomplete, within ten (10) business days from the date of receipt of the file, the superior tax management body shall give notice to the body which prepared the file to finalize the file.

²⁴ Allens footnote: Clause 2 was amended by Law 21.

²⁵ Allens footnote: Article 67 was amended by Law 21.

3. The competent person shall, within a time-limit of sixty (60) days from the date of receipt of the complete file for cancellation of an outstanding tax, late payment charge or fine, make a decision on cancellation of the outstanding tax, late payment charge or fine or provide notice that the case is ineligible for cancellation of an outstanding tax, late payment charge or fine.

CHAPTER IX

Information on Tax Payers

Article 69 *Information system on taxpayers*

1. The system of information on taxpayers shall consist of information and documents relating to tax obligations of taxpayers.
2. Information on taxpayers shall provide a basis for tax management, appraisal of the degree of observance of law by taxpayers, and prevention and detection of breaches of the law on tax.
3. Any act of falsifying, misusing, illegally accessing or destroying the system of information on taxpayers shall be strictly prohibited.

Article 70 *Formulation, collection, processing and managing the information system on taxpayers*

1. Tax management bodies shall be responsible to organize formulation, management and development of databases and technical infrastructure of the information system on taxpayers; and shall organize entities specialized in performing the duty of collation and processing of information, management of databases and maintenance and operation of the information system on taxpayers.
- 2.²⁶ Tax management bodies shall take necessary professional measures to collect, exchange and process domestic and foreign information and official information from tax management bodies and competent bodies overseas in accordance with international treaties to which the Socialist Republic of Vietnam is a member, [and] documents entered into between Vietnam and other countries relating to taxation and customs for use in tax management.
3. Tax management bodies shall co-ordinate with relevant bodies, organizations and individuals to exchange information and to conduct online connection to the network.
4. The Ministry of Finance shall issue specific regulations on formulation, collection, processing and management of the information system on taxpayers.

Article 71 *Responsibilities of tax payers to provide information*

1. To provide complete information in tax files.
2. To provide information relating to determination of tax obligations upon request of a tax management body.
3. To promptly provide complete, accurate and truthful information to tax management bodies.

²⁶ Allens footnote: Clause 2 was amended by Law 21.

Article 72 *Responsibilities of related organizations and individuals to provide information about taxpayers*

1. The following bodies shall be responsible to provide information about taxpayers to tax management bodies:
 - (a) Bodies issuing business registration certificates, enterprise registration certificates or licences for establishment and operation shall be responsible to provide information on items of business registration certificates, enterprise registration certificates, on licences for establishment and operation or on certificates of changes in business registration of organizations and individuals to tax management bodies within seven business days from the date of issuance of such certificates, licences or certificates of changes; and shall provide other information upon request from a tax management body.
 - (b) The State Treasury shall be responsible to provide information to tax management bodies on amounts of tax paid by, or refunded to taxpayers.
2. The following bodies shall be responsible to provide information upon request from a tax management body:
 - (a) Commercial banks and other credit institutions shall provide information about items of transactions via bank accounts of taxpayers within ten (10) business days from the date of receipt of a request from a tax management body for provision of information;
 - (b) State administrative bodies for housing and land shall provide information about the current status of land use or housing ownership of any organization, family household or individual;
 - (c) Police authorities shall provide and exchange information relating to prevention and fighting against tax-related crime; to provide information on individuals on exit or entry and information on registration and management of vehicles;
 - (d) Bodies paying income shall provide information on payment of income and withheld tax amounts of taxpayers upon request from a tax management body;
 - (dd) Administrative bodies for trade shall provide information on policies on control of Vietnamese or foreign import and export goods or goods in transit; and information on market control.
3. Other State bodies, organizations and individuals shall provide information relating to taxpayers upon request from a tax management body.
4. Information shall be provided or exchanged in either written or electronic form.
5. The Government shall issue detailed regulations on provision and management of information about taxpayers.

Article 73 *Confidentiality of information of taxpayers*

1. Tax management bodies, tax management officials, former tax management officials and organizations engaged in the business of services for performance of tax procedures shall keep confidential pursuant to law information of taxpayers, except in the cases stipulated in clause 2 of this article.
2. Tax management bodies shall provide information of taxpayers to the following bodies:

- (a) Investigating bodies, prosecutors and courts;
- (b) Inspectorates and the State Auditor;
- (c) Other State administrative bodies pursuant to law;
- (d) Foreign tax management bodies, in compliance with an international treaty on taxation of which the Socialist Republic of Vietnam is a member.

Article 74 *Publication of information about taxpayers who breach the law on tax*

Tax management bodies shall be entitled to make public on the mass media information about breaches of the law on tax committed by taxpayers in the following cases:

- 1. Tax evasion, tax fraud, or intentional delay to pay tax.
- 2. Breaches of the law on tax affecting interests and tax obligations of other organizations or individuals.
- 3. Failure to satisfy the request of a tax management body made pursuant to law.

CHAPTER X

Tax Checks and Inspections

Section 1

General Provisions on Tax Checks and Inspections

Article 75 *Principles of tax check and inspections*

- 1. Check and inspections shall be conducted on the basis of analysis of information and data relating to taxpayers, assessment of the observance of law by taxpayers, and verification and collection of proof to identify any breach of the law on tax.
- 2. Check and inspections shall not obstruct normal operation of bodies, organizations and individuals who are taxpayers.
- 3. Check and inspections shall comply with this Law and other relevant laws.

Article 76 *Processing results of a tax check or inspection*

- 1. Based on the result of a tax check or tax inspection, the head of a tax management body shall issue a decision dealing with tax or penalizing an administrative breach within his or her powers, or shall request the competent person to issue a decision on penalty for an administrative breach in relation to taxation.
- 2. Where an act of tax evasion with indications of a crime is detected via a tax check or tax inspection, the tax management body shall, within ten (10) business days from the date of detection, transfer the file to the competent body to investigate pursuant to the law on criminal proceedings. The tax management body shall be responsible to co-ordinate with the investigating body to investigate tax-related crimes pursuant to law.

Section 2

Tax Checks

Article 77 *Tax checks conducted at headquarters of the tax management body*

1. Tax checks at the headquarter of a tax management body shall be conducted on a regular basis in respect of tax files, in order to assess the completeness and accuracy of information and source documents in tax files, and the observance of law on tax by taxpayers.
2. When checking a tax file, a tax management official shall compare the items of the tax file with relevant information and documents, provisions of the laws on tax, and where necessary, results of the actual check of goods in the case of import or export goods.
3. Processing of results of a tax check shall be regulated as follows:
 - (a) Where a breach resulting in a shortfall of tax, tax evasion or tax fraud is detected via a tax check during performance of customs procedures, the taxpayer shall pay the shortfall of tax and shall be subject to a penalty in accordance with this Law and other relevant laws.
 - (b) Where a tax file contains any unclear item related to an amount of tax payable, exempted, reduced or refunded, the tax management body shall notify and request the taxpayer to make an explanatory statement or provide additional information and documents. Where the taxpayer has made an explanatory statement or provided additional information and documents to prove that the declared amount of tax is correct, the tax file shall be accepted. If the explanatory statement and additional documents cannot produce sufficient grounds to prove that the declared amount of tax is correct, the tax management body shall request the taxpayer to make an additional declaration.
 - (c) Where the taxpayer fails to make an explanatory statement or to provide additional information or documents or to make an additional declaration for the tax file within the time-limit notified by the tax management body or where the explanatory statement or additional declaration is incorrect, the head of the tax management body directly responsible for management shall fix an amount of tax payable or issue a decision on a tax check to be conducted at the head office of the taxpayer.
 - (d) In the case of import or export goods for which customs clearance has been performed, where the customs office detects that the duty file contains any unclear item related to an amount of duty payable, exempted, reduced or refunded, the customs office shall notify and request the taxpayer to make an explanatory statement or provide additional information and documents. Where the taxpayer has made an explanatory statement or provided additional information and documents to prove that the declared amount of duty is correct, the tax file shall be accepted. If the explanatory statement and additional documents cannot produce sufficient grounds to prove that the declared amount of duty is correct, or an explanatory statement cannot be provided within the time-limit, the head of the customs office shall fix an amount of duty payable or issue a decision on a duty check to be conducted at the head office of the taxpayer.

Article 78²⁷ *Tax checks conducted at head office of the taxpayer*

1. Cases of tax checks conducted at head office of the taxpayer:
 - (a) The cases specified in article 77.3 (c) and (d) of this Law;
 - (b) Cases of post-customs clearance check, including planned checks and random checks, to assess the observance of the law on tax, and checks in the case where import or export goods for which customs clearance has been performed have signs of a breach of the law on tax.

If any indication of tax evasion or tax fraud is detected during a post-customs clearance check, the Director of the Department of Post-Customs Clearance Inspection, of a Customs Department or of a division of post-customs clearance inspection shall have the power to make a decision to take the measures stipulated in Section 4 of Chapter X of this Law.
 - (c) In the cases where the subjects to be checked are determined based on the criteria for tax risk assessment through analysis and assessment of the extent of law compliance by taxpayers; checks of cases where there is an indication of a breach of law, and cases selected for planned or specialized checks as decided by the head of the superior tax management body: The tax management body shall conduct not more than one check in a year at the head office of a taxpayer for the cases mentioned in this paragraph.
2. The decision on tax check must be sent to the taxpayer within the time-limit of three business days from the date of signing. Where the taxpayer can prove that the amount of tax declared is correct or pays the amount of tax payable in full within the time-limit of five business days from the date of receipt of the decision on tax check, the tax management body shall cancel the decision on tax check.
3. The order and procedures for tax checks shall be as follows:
 - (a) Announcing the decision on tax check upon commencement of a tax check;
 - (b) Comparing the declared items with accounting books, accounting vouchers, financial statements, relevant documents and the actual status within the scope and items of the decision on tax check;
 - (c) The time-limit for a tax check shall not exceed five business days from the date of announcement of the decision on the check; in the case of planned checks on import or export goods, this time-limit shall not exceed fifteen (15) days;
 - (d) Where necessary, the decision on tax check shall be extended once; and the extension shall not exceed the time-limit stipulated in paragraph (c) of this clause;
 - (dd) Making minutes of the tax check within five business days from the date of expiration of the time-limit for the check;
 - (e) Dealing with the result of the check within powers or transferring same to the competent authority to deal with.

²⁷ Allens footnote: Article 78 was amended by Law 21.

Article 79 *Rights and obligations of taxpayers during tax checks conducted at headquarters of the taxpayer*

1. A taxpayer shall have the following rights:
 - (a) To refuse the check without a decision on tax check;
 - (b) To refuse to provide information and documents which are irrelevant to the items of the tax check; or documents being State secrets, unless otherwise stipulated by law;
 - (c) To receive the record of the tax check and to request an explanation of the contents of the record;
 - (d) To reserve his or her opinion in the record of tax check;
 - (dd) To lodge a complaint, to take a court action and to claim compensation pursuant to law for any loss;
 - (e) To lodge a denunciation regarding any breach of law in the course of the tax check.
2. A taxpayer shall have the following obligations:
 - (a) To comply with the decision of the tax management body on tax check;
 - (b) To promptly provide complete and accurate information and documents relating to the items of the check upon the request of the tax check team; and to be responsible before the law for the accuracy and truthfulness of provided information and documents;
 - (c) To sign the record of tax check within five business days from the date of completion of the check;
 - (d) To comply with the decision dealing with the result of the tax check.

Article 80 *Duties and powers of head of tax management body in issuance of a decision on tax check, and of tax management officials during a tax check*

1. The head of a tax management body which makes a decision on a tax check shall have the following duties and powers:
 - (a) To direct the check in accordance with the contents and time-limit stated in the decision on tax check;
 - (b) To take the measure of temporary detention of documents and exhibits relating to any act of tax evasion or tax fraud stipulated in article 90 of this Law;
 - (c) To extend the time-limit for a check where necessary;
 - (d) To make a decision dealing with tax or a decision on penalty for an administrative breach within his or her powers, or to propose the competent person make a decision on penalty for an administrative breach;
 - (dd) To resolve complaints and denunciations relating to an administrative act or a decision of a tax management official.

2. During conduct of a tax check, a tax management official shall have the following duties and powers:
 - (a) To carry out the check in accordance with the contents and time-limit stated in the decision on tax check;
 - (b) To request the taxpayer to provide information and documents relevant to the check;
 - (c) To make a record of the tax check; to submit a report on the results of the check to the person who made the decision on the check and to be responsible for the accuracy, truthfulness and objectiveness of such record and report;
 - (d) To penalize any administrative breach within his or her powers, or to propose that the competent person make a decision dealing with the breach.

Section 3

Tax Inspections

Article 81 *Cases when tax inspections shall be conducted*

1. In the case of enterprises with diversified lines of business and a wide scope of business, periodical tax inspection shall be conducted no more than once a year.
2. When there is an indication of a breach of the law on tax.
3. For the purpose of resolving a complaint or denunciation or upon the request of the head of a tax management body at any level or of the Minister of Finance.

Article 82 *Decision on tax inspection*

1. Heads of tax management bodies at all levels shall have the power to issue a decision on tax inspection.
2. A decision on tax inspection shall contain the following items:
 - (a) Legal ground(s) for tax inspection;
 - (b) Object [of the inspection], items, scope and tasks of tax inspection;
 - (c) Duration of tax inspection;
 - (d) Head and other members of the tax inspection team.
3. The decision on tax inspection shall be sent to the entity to be inspected within three business days from the date of signing.

The decision on tax inspection shall be announced within fifteen (15) days from the date of its issuance.

Article 83 *Limit on duration of a tax inspection*

1. The limit on duration of a tax inspection shall be thirty (30) days from the date of announcement of the decision on tax inspection.
2. Where necessary, the person issuing the decision on tax inspection shall grant an extension of the duration of the tax inspection, but the extension shall not exceed thirty (30) days.

Article 84 *Duties and powers of person issuing decision on tax inspection*

1. A person issuing a decision on tax inspection shall have the following duties and powers:
 - (a) To direct and check whether or not the tax inspection team conducts the tax inspection in accordance with the contents and duration stated in the decision on tax inspection;
 - (b) To request the entity being inspected to provide information and documents, to report in writing and explain matters relating to the items of the inspection; to request bodies, organizations and individuals having information and documents relating to the items of the inspection to provide such information and documents;
 - (c) To take the measures stipulated in articles 89, 90 and 91 of this Law;
 - (d) To seek opinions of experts about matters relating to the contents of the tax inspection;
 - (dd) To temporarily suspend or propose the competent person suspend any act when he or she considers such act causes serious loss to the interests of the State or to the lawful rights and interests of any body, organization or individual;
 - (e) To deal with breaches of the law on tax within his or her power, or propose the competent person deal with them; to inspect and motivate execution of decisions on penalty in relation to tax inspection;
 - (g) To resolve complaints and denunciations relating to the responsibilities of the head and other members of the tax inspection team;
 - (h) To make conclusions on the contents of the tax inspection.
2. When performing the duties and exercising the powers stipulated in clause 1 of this article, the person issuing the decision on tax inspection shall be responsible before the law for his or her decision.

Article 85 *Duties and powers of head and members of tax inspection team*

1. The head of a tax inspection team shall have the following duties and powers:
 - (a) To organize the tax inspection and direct members of the tax inspection team to strictly conduct in terms of the contents, objective and duration stated in the decision on tax inspection;
 - (b) To request the entity being inspected to provide information and documents, to report in writing and explain matters related to the contents of the tax inspection; and where necessary, to conduct an inventory of assets of the entity being inspected which are relevant to the tax inspection;

- (c) To take the measure stipulated in article 90 of this Law;
 - (d) To prepare a record of tax inspection;
 - (dd) To submit a report on results of the inspection to the person issuing the decision on tax inspection and to be responsible for the accuracy, truthfulness and objectiveness of such report;
 - (e) To penalize administrative breaches within his or her powers, or propose the competent person make a decision dealing with breaches.
2. A member of a tax inspection team shall have the following duties and powers:
- (a) To perform the duties assigned by the head of the tax inspection team;
 - (b) To make a proposal for dealing with matters relating to the contents of the tax inspection;
 - (c) To report the result of performance of the assigned tasks to the head of the tax inspection team.
3. When performing duties and exercising powers stipulated in this article, the head and members of a tax inspection team shall be responsible before the law for their decisions and acts.

Article 86 *Rights and obligations of entities subject to a tax inspection*

1. Entities subject to a tax inspection shall have the following obligations:
- (a) To abide by the decision on tax inspection;
 - (b) To promptly provide complete and accurate information and documents relating to the contents of inspection upon the request of the tax management body or of the head of the tax inspection team, and to be responsible before law for the accuracy and truthfulness of the information and documents provided;
 - (c) To comply with requests and abide by the conclusion of the tax inspection and the decision on penalty of the tax management body, the head of the tax inspection team and the competent State body;
 - (d) To sign the record of inspection within five business days from the date of completion of the tax inspection.
2. Entities subject to a tax inspection shall have the following rights:
- (a) To explain matters related to the contents of the tax inspection;
 - (b) To reserve their opinions in the record of the tax inspection;
 - (c) To refuse to provide information and documents irrelevant to the items of the tax inspection, or information and documents being State secrets, unless otherwise stipulated by law;
 - (d) To lodge a complain regarding a decision or act of the head or a member of the tax inspection team with the person issuing the decision on tax inspection when there are grounds to believe

that such decision or act was contrary to law. Pending resolution of such complaint, the complainant must still comply with such decision;

- (dd) To request compensation pursuant to law for any loss;
- (e) To lodge a denunciation regarding any breach of law by the head of a tax management body, or by the head or members of the tax inspection team.

Article 87 *Conclusions of a tax inspection*

1. No later than fifteen (15) days from the date of receipt of a report on the result of a tax inspection, the person issuing the decision on tax inspection shall make a written conclusion from the tax inspection, such conclusion to contain the following:
 - (a) Assessment of the observance of the law on tax by the entity inspected in terms of the contents of the tax inspection;
 - (b) Conclusion on the contents of the tax inspection;
 - (c) Clear determination of the nature and seriousness of any offence, reasons for it, and responsibilities of the body, organization or individual committing the breach (if any);
 - (d) How the administrative breach was dealt with within his or her powers, or what was the proposal to the competent person to deal with the administrative offence.
2. During preparation of a written conclusion from an inspection, the person issuing the decision on inspection shall be entitled to request the head or any member of the inspection team to report, or to request the entity inspected to explain and further clarify matters necessary for preparation of the conclusion of the tax inspection.

Section 4

Measures Applicable during a Tax Inspection in Cases with Signs of Tax Evasion or Tax Fraud

Article 88 *Application of measures during a tax inspection in cases with signs of tax evasion or tax fraud*

1. When a taxpayer shows an indication of tax evasion or tax fraud involving another organization or individual.
2. When there are complex signs of tax evasion or tax fraud.

Article 89 *Collection of information about acts of tax evasion or tax fraud*

1. The head of a tax management body shall be entitled to request any organization or individual possessing information on an act of tax evasion or tax fraud to provide such information in writing or to give a verbal answer.
2. In the case of requests for provision of information in writing, upon receipt of the request from the head of a tax management body, the organization or individual concerned shall be responsible to provide information on the correct items by the deadline to the address as requested and shall be responsible for the accuracy and truthfulness of the such information. If the provision of information is impossible, a notice shall be given in writing specifying the reasons.

3. In the case of requests for provision of information by a verbal answer, upon receipt of the request from the head of a tax management body, the person who is requested to provide information shall be present at the time and location stated in the written request to provide information on the requested items and shall be responsible for the accuracy and truthfulness of such information. If he or she is unable to be present, a notice shall be given in writing specifying the reasons.

During collection of information provided by a verbal answer, a tax inspector shall make a record of the meeting and shall be permitted to conduct publicly an audio-visual recording.

Article 90 *Temporary retention of data and exhibits relating to acts of tax evasion or tax fraud*

1. The head of a tax management body or of a tax inspection team shall be entitled to make a decision on temporary retention of documents and exhibits relating to an act of tax evasion or tax fraud.
2. Temporary retention of documents and exhibits related to an act of tax evasion or tax fraud shall be taken when it is necessary to verify a fact to provide the basis for making a decision promptly dealing with or preventing an act of tax evasion or tax fraud.
3. If, during tax inspection, the entity inspected shows signs of dispersing or destroying documents or exhibits relevant to an act of tax evasion or tax fraud, the tax inspector on duty shall be entitled to temporarily retain such documents or exhibits. Within twenty four (24) hours after such temporary retention, the tax inspector shall submit a report to the head of the tax management body or of the tax inspection team to make a decision on temporary retention of such documents or exhibits; and within eight business hours upon receipt of the report, the competent person shall consider and make a decision on temporary retention. Where the competent person disagrees with the temporary retention, the tax inspector shall return the documents or exhibits within eight business hours.
4. When temporarily retaining documents or exhibits relevant to an act of tax evasion or tax fraud, the tax inspector shall make a record of temporary retention specifying the name, number and types of documents or exhibits temporarily retained, signed by the person carrying out such temporary retention and by the person currently managing documents and exhibits relating to the breach. The person issuing the decision on temporary retention shall be responsible to keep the documents or exhibits temporarily retained and shall be responsible before the law if such documents or exhibits are lost, sold, exchanged or damaged.

Where documents or exhibits should be affixed with a seal, the seal shall be affixed in the presence of the person having such documents or exhibits. Where the person having such documents or exhibits is absent, the seal shall be affixed in the presence of a representative of his or her family or representative of the organization and a representative of the local authority and a witness.

5. Exhibits being Vietnamese currency, foreign currency, gold, silver, gems, precious metal and objects subject to special management shall be preserved pursuant to law; in the case of exhibits being perishable goods or articles, the person issuing the decision on temporary retention shall make a record thereof and promptly arrange their sale to avoid loss and damage. Proceeds from the sale shall be transferred into an escrow account opened at the State Treasury in order to ensure collection of tax, late payment charges and fines in full.
6. Within a time-limit of ten (10) business days from the date of temporary retention, the person issuing the decision on temporary retention shall deal with the temporarily retained documents or exhibits by the measures stated in the decision on penalty or shall return them to the relevant individual or organization in a case where the measure to confiscate the documents or exhibits is not taken. The duration of temporary retention of documents or exhibits may be extended in complex cases which

require verification but shall not exceed sixty (60) days from the date of temporary retention of the documents or exhibits. The extension of the duration of temporary retention of documents or exhibits shall be determined by the competent person in accordance with clause 1 of this article.

7. The tax management body shall send a copy of the decision on temporary retention, of the record of temporary retention and of the decision dealing with documents or exhibits relevant to an act of tax evasion or tax fraud to the organization or individual with the documents or exhibits subject to temporary retention.

Article 91 *Search of locations hiding documents and exhibits relevant to acts of tax evasion or tax fraud*

1. The head of a tax management body shall be entitled to make a decision on search of a location hiding documents or exhibits relevant to an act of tax evasion or tax fraud. Where the location hiding documents or exhibits relevant to an act of tax evasion or tax fraud is a residence, the written consent of the competent person stipulated by law shall be required.
2. A search of a location shall be conducted when there are grounds for believing that documents or exhibits relevant to an act of tax evasion or tax fraud are hidden there.
3. A search of a location hiding documents or exhibits shall be conducted in the presence of the owner of the searched location and witnesses. When the owner of the searched location is absent and the search cannot be delayed, the presence of a representative of the local authority and two witnesses shall be required.
4. Any search of a location hiding documents or exhibits relevant to an act of tax evasion or tax fraud at night, on holidays, or when the owner of the searched location carries out a wedding or funeral shall not be allowed, unless an illegal act is caught red-handed in which case such reason for the search must be specified in the record.
5. All cases of search of a location hiding documents or exhibits relevant to an act of tax evasion or tax fraud shall require a decision in writing and a record. A copy of the decision and of the record of search of a location hiding documents or exhibits shall be delivered to the owner of the searched location.

CHAPTER XI

Compulsory Enforcement of Administrative Tax Decisions

Article 92 *Cases in which administrative tax decisions shall be compulsory enforced*

1. Taxpayers owing a tax amount, late payment charge or fine for a breach of the law on tax which is overdue more than ninety (90) days from the stipulated deadline for payment of such tax, late payment charge or fine for the breach of the law on tax.
2. Taxpayers owing a tax amount, late payment charge or fine for a breach of the law on tax upon expiry of the extension of the period for tax payment.
3. Taxpayers owing a tax amount, late payment charge or fine who commit an act of dispersing their assets or disappearing.

- 4.²⁸ Administrative tax decisions shall not yet be compulsorily enforced where a taxpayer is permitted by the tax management body to pay the amount of tax debt in instalments within a time-limit not exceeding twelve (12) months from the first day of the tax enforcement time-limit. The payment of tax debt in instalments shall be considered based on the request of the taxpayer and must be guaranteed by a credit institution. The taxpayer must pay a late payment charge of 0.05%/day on the amount of late tax payment.

The Government shall make detailed provisions on this clause.

Article 93 *Methods of compulsory enforcement of administrative tax decisions*

- 1.²⁹ Methods of compulsory enforcement of an administrative tax decision shall comprise:
- (a) Debiting the account(s) of the entity subject to compulsory enforcement of the administrative tax decision opened at the State Treasury, a commercial bank or another credit institution; requesting freezing of an account;
 - (b) Deducting a part of salary or income;
 - (c) Suspending performance of customs procedures for export or import goods;
 - (d) Announcing suspension of the use of invoices;
 - (dd) Conducting a seizure of assets and an auction of seized assets pursuant to law;
 - (e) Collecting money or other assets of the entity subject to compulsory enforcement of the administrative tax decision held by another organization or individual;
 - (g) Revoking the business registration certificate, enterprise registration certificate, enterprise registration certificate, licence for establishment and operation or practising license.
2. The methods of compulsory enforcement of an administrative tax decision stipulated in clause 1 of this article shall no longer be effective upon full payment of tax, late payment charge and fine into the State budget.
- 3.³⁰ The methods of compulsory enforcement provided in clause 1 of this article shall apply in accordance with articles 97, 98, 98a, 99, 100, 101 and 102 of this Law and other provisions of relevant legal instruments. In the cases where the taxpayer flees or disposes of assets, the competent person shall issue a compulsory enforcement decision provided in article 94 of this Law on application of appropriate method of enforcement to ensure timely recovery of tax debt for the State Budget.

Article 94 *Authority to issue decision to compulsorily enforce an administrative tax decision*

Heads of tax management bodies, the Director of the Department of Anti-Smuggling Investigation or the Director of the Department of Post-Customs Clearance Inspection shall have the power to make a decision to compulsorily enforce an administrative tax decision in the cases stipulated in sub-clauses (a) to (e) of article 93.1 of this Law.

²⁸ Allens footnote: Clause 4 was added by Law 21.

²⁹ Allens footnote: Clause 1 was amended by Law 21.

³⁰ Allens footnote: Clause 3 was added by Law 21.

Revocation of business registration certificates, enterprise registration certificates, licences for establishment and operation or practising certificates as stipulated in article 93.1(g) of this Law shall be carried out in accordance with law.

Article 95 *Decision to compulsorily enforce an administrative tax decision*

1. Compulsory enforcement of an administrative tax decision shall only be carried out upon the decision of the competent person stipulated in article 94 of this Law to compulsorily enforce the administrative tax decision.
2. A decision to compulsorily enforce an administrative tax decision shall contain the following items: date of issuance of the decision; grounds for issuance of the decision; full name, position and unit of the decision-making person; full name, place of residence and head office of the entity subject to compulsory enforcement of the administrative tax decision; reason(s) for compulsory enforcement of the administrative tax decision; method of compulsory enforcement; date and place of compulsory enforcement; the body presiding over implementation of the decision to compulsorily enforce the administrative tax decision; the bodies responsible for co-ordination; and signature of the decision-making person and seal of the issuing body.
3. The decision to compulsorily enforce an administrative tax decision shall be sent to the entity subject to compulsory enforcement of the administrative tax decision and related organizations and individuals at least five business days before the compulsory enforcement is carried out; and the decision on compulsory enforcement shall be sent to the immediately superior tax management body. In the case of compulsory enforcement by the method stipulated in article 93.1(c) of this Law, the decision shall be sent to the chairman of the people's committee of the commune, ward or township in which compulsory enforcement of the administrative tax decision is to be carried out, before the decision is implemented.

Article 96 *Responsibilities to organize implementation of decisions on compulsory enforcement of administrative tax decisions*

1. The person who issues a decision to compulsorily enforce an administrative tax decision shall have the duty to organize implementation of such former decision.
2. The people's committee of a commune, ward or township of the entity subject to compulsory enforcement of an administrative tax decision shall direct responsible bodies to co-ordinate with the tax management body to compulsorily enforce such decision.
3. People's police forces shall be responsible to ensure order and safety and to support the tax management body during compulsory enforcement of an administrative tax decision upon the request of the person who issued the decision to compulsorily enforce such decision.

Article 97 *Method of compulsory enforcement being transfer of money from bank accounts of entity subject to compulsory enforcement of administrative tax decisions*

1. The method of transferring money from a bank account shall be applicable to entities subject to compulsory enforcement of an administrative tax decision with deposits at the State Treasury, commercial bank or other credit institution.
2. Upon receipt of the decision on compulsory enforcement of an administrative tax decision, the State Treasury, commercial bank or other credit institution shall transfer the mount of money stated in the decision on compulsory enforcement of an administrative tax decision from the bank account of the entity subject to such compulsory enforcement and into the account of the State budget at the State

Treasury, and at the same time shall give notification in writing to the person who issued the decision on compulsory enforcement of an administrative tax decision and to the entity subject to compulsory enforcement.

3. A decision on compulsory enforcement of an administrative tax decision by method of transferring money from a bank account of the entity subject to such compulsory enforcement shall be effective within a time-limit of thirty (30) days from the date of issuance of the decision. Where the decision on compulsory enforcement of an administrative tax decision expires but the State Treasury, commercial bank or other credit institution has not transferred in full money for the amount of tax pursuant to the such decision, it must give notification in writing to the person who issued the decision on compulsory enforcement of an administrative tax decision.
4. During the effective duration of a decision on compulsory enforcement of an administrative tax decision, if there is any balance in the bank account of the entity subject to compulsory enforcement of an administrative tax decision but the State Treasury, commercial bank or other credit institution fails to transfer money of the such entity into the State budget pursuant to the decision on compulsory enforcement of an administrative tax decision, it shall be subject to a penalty for an administrative breach in accordance with the provisions of Chapter XII of this Law.

Article 98 *Method of compulsory enforcement being deduction of a part of salary or revenue*

1. The method of deducting a part of salary or income shall be applicable to taxpayers subject to compulsory enforcement of an administrative tax decision who currently work as State employees, or on the basis of a contract with a term of six months or more, or who are entitled to a pension subsidy or a subsidy for loss of business capacity.
2. The rate of deduction from salary, pension subsidy or subsidy for loss of business capacity in the case of an individual shall be between 10% and 30% of total monthly salary or subsidy of such individual; in the case of other income, the rate of deduction shall be subject to actual income but shall not exceed 50% of total aggregate income.
3. A body or organization being the employer who currently manages salary or income of the entity subject to compulsory enforcement of an administrative tax decision shall have the following responsibilities:
 - (a) To deduct a part of salary or income of the entity subject to compulsory enforcement and to transfer the deducted amount into the account of the State budget at the State Treasury pursuant to the items of the decision on compulsory enforcement of an administrative tax decision as from the latest payment of salary or income up until deduction of the full amount of tax or fine stated in such decision, and at the same time must give notification to the person who issued the decision on compulsory enforcement and to the entity subject to compulsory enforcement;
 - (b) Where the labor contract of an entity subject to compulsory enforcement terminates whilst [his or her salary or income] has not been deducted for the full amount of tax or fine pursuant to the decision on compulsory enforcement, the body or organization being his or her employer shall give notification to the person who issued the decision on compulsory enforcement of an administrative tax decision within five business days from the date of termination of the labor contract.
 - (c) Any body or organization being the employer who currently manages salary or income of the entity subject to compulsory enforcement of an administrative tax decision who intentionally

fails to perform such decision shall be subject to a penalty for an administrative breach in accordance with Chapter XII of this Law.

Article 98a³¹ *Method of compulsory enforcement being announcing suspension of the use of invoices*

1. A tax management body which cannot apply the methods of compulsory enforcement stipulated in article 93.1(a), (b) and (c) of this Law or has applied such methods but has not collected in full an amount of tax, late payment charge or fine, shall be entitled to apply the method of announcing suspension of the use of invoices.
2. The head of the tax management body shall be responsible for notifying the entity subject to compulsory enforcement within three business days before making an announcement of suspension of the use of invoices.
3. The tax management body must publicly announce the performance of the method of compulsory enforcement in accordance with this article on means of mass media.

Article 99 *Method of compulsory enforcement being seizure of assets and auction of seized assets*

- 1.³² A tax management body which cannot apply the methods of compulsory enforcement stipulated in article 93.1(a), (b), (c) and (d) of this Law or has applied such methods but has not collected in full an amount of tax, late payment charge or fine, shall be entitled to apply the method of seizing assets and conducting an auction of seized assets. The method of seizing assets shall not apply to any taxpaying individual currently undergoing medical treatment at a clinical establishment founded in accordance with the law of Vietnam.

The method of seizing assets shall not apply to any taxpaying individual undergoing medical treatment.

2. The value of seized assets of the entity subject to compulsory enforcement shall be equivalent to the amount of tax stated in the decision on compulsory enforcement and expenses for compulsory enforcement.
3. The following assets cannot be seized:
 - (a) Medication, food and foodstuffs serving essential needs of an entity subject to compulsory enforcement of an administrative tax decision and his or her family;
 - (b) Business tools;
 - (c) Residential housing and essential personal articles of an entity subject to compulsory enforcement of an administrative tax decision and his or her family;
 - (d) Worship articles; relics of deceased persons; medals or certificates of merit;
 - (dd) Assets serving national defence and security.

³¹ Allens footnote: Article 98a was added by Law 21.

³² Allens footnote: Clause 1 was amended by Law 21.

4. Where an entity subject to compulsory enforcement of an administrative tax decision fails to pay in full the outstanding amount of tax, late payment charge or fine within thirty (30) days from the date of seizure of assets, the tax management body shall be entitled to conduct an auction of the seized assets in order to collect in full the outstanding amount of tax, late payment charge or fine.
5. The Government shall stipulate the order and procedures for compulsory enforcement of administrative tax decisions by the method of seizure of assets and auction of seized assets.

Article 100 *Method of compulsory enforcement being collection of money and assets owned by an entity subject to compulsory enforcement but held by another organization or individual*

1. The method of compulsory enforcement being collection of money and assets owned by an entity subject to compulsory enforcement but held by another organization or individual (hereinafter referred to as a third party) shall be applied when all of the following conditions are satisfied:
 - (a)³³ The tax management body cannot apply the methods of compulsory enforcement stipulated in article 93.1(a), (b), (c), (d) and (dd) of this Law or has applied such methods but has not collected in full an amount of tax, late payment charge or fine;
 - (b) The tax management body has grounds for determining that the third party owes a debt to or holds money or other assets of the entity subject to compulsory enforcement.
2. Principles of collection of money or other assets owned by an entity of compulsory enforcement but held by a third party shall be stipulated as follows:
 - (a) The third party who owes the debt due and payable to the entity subject to compulsory enforcement or who holds money or other assets of the entity subject to compulsory enforcement shall be liable to pay the outstanding amount of tax, late payment charge or fine on behalf of the such entity.
 - (b) Where money or other assets owned by an entity subject to compulsory enforcement but held by a third party are the object of a security transaction or are subject to a case of bankruptcy, the collection of such money or other assets held by the third party shall be carried out pursuant to law.
 - (c) Any amount of money paid by a third party on behalf of the entity subject to compulsory enforcement into the State budget shall be considered the amount of money paid for the entity subject to compulsory enforcement.
3. Responsibilities of a third party who owes a debt to or holds money or other assets of an entity subject to compulsory enforcement shall be stipulated as follows:
 - (a) To provide the tax management body with information about the debt to or amount of money or other assets of the entity subject to compulsory enforcement in its possession, specifying the amount of money, due date of the debt, type, quantity and current state of the assets;
 - (b) Upon receipt of a request in writing from the tax management body, not to return money or other assets to the entity subject to compulsory enforcement until the money is paid into the State budget or the assets are transferred to the tax management body in order to carry out procedures for an auction;

³³ Allens footnote: Clause 1(a) was amended by Law 21.

- (c) Where it is impossible to satisfy the request of the tax management body, to send an explanatory statement in writing to the tax management body within five business days from the date of receipt of the request in writing from the tax management body;
- (d) Any organization or individual owing a debt to or holding money or other assets of an entity subject to compulsory enforcement of an administrative tax decision but failing to pay [on behalf of the entity] the tax amount subject to compulsory enforcement within fifteen (15) days from the date of receipt of the request from the tax management body shall be deemed to owe tax to the State and shall be subject to the methods of compulsory enforcement stipulated in article 93.1 of this Law.

4.³⁴ The Government shall provide for the order and procedures for compulsory enforcement of an administrative tax decision by collecting money or other assets of the entity subject to compulsory enforcement held by another organization or individual.

Article 101³⁵ *Method of compulsory enforcement being suspension of customs procedures for export or import goods*

1. The method of compulsory enforcement being suspension of customs procedures for export or import goods shall apply where the customs body cannot apply or has applied the methods of compulsory enforcement provided in article 93.1(a) and (b) of this Law but has not been able to collect in full the amounts of tax debt, late payment charge or fine.
2. The head of a customs office in charge of the locality of the taxpayer with an overdue tax amount shall give notification no later than five business days before applying the method of suspending customs procedures for import goods.
- 3.³⁶ The method of compulsory enforcement being suspension of customs procedures for export or import goods shall not apply in the following cases:
 - (a) Export goods are not subject to export duty;
 - (b) Export or import goods directly serve national security and defence, control of natural disasters or epidemics, emergency aid; or goods for charitable aid or non-refundable aid.

Article 102³⁷ *Method of compulsory enforcement being revoking the business registration certificate, enterprise registration certificate, licence for establishment and operation or practising license.*

1. The method of compulsory enforcement being revoking the business registration certificate, enterprise registration certificate, licence for establishment and operation or practising license shall apply where the tax management body cannot apply or has applied the methods of compulsory enforcement provided in article 93.1(a), (b), (c), (d), (dd) and (e) of this Law but has not been able to collect in full the amounts of tax debt, late payment charge or fine.

³⁴ Allens footnote: Clause 4 was added by Law 21.

³⁵ Allens footnote: Article 101 was amended by Law 21.

³⁶ Allens footnote: Clause 3 was added by Law 21.

³⁷ Allens footnote: Article 102 was amended by Law 21.

2. The head of the tax management body shall be responsible for sending a written request to the competent State management authority to revoke the business registration certificate, enterprise registration certificate, licence for establishment and operation or practising license.
3. The competent State management authority must publicly announce the performance of the method of compulsory enforcement in accordance with this article on means of mass media.

CHAPTER XII

Dealing with Breaches of the Law on Tax

Article 103 *Conduct of taxpayers which constitutes a breach of the law on tax*

1. Breach of tax procedures.
2. Late payment of tax.
3. False declaration resulting in a reduction of the amount of tax payable or an increase in refundable amount of tax.
4. Tax evasion or tax fraud.

Article 104 *Principles of and procedures for dealing with breaches of the law on tax*

1. All detected breaches of the law on tax shall be dealt with justly, thoroughly and promptly. All consequences caused by a breach of the law on tax shall be rectified in accordance with law.
2. Any organization or individual shall only be subject to an administrative penalty in relation to tax when it, he or she commits a breach of the law on tax.
3. A breach of the law on tax shall be dealt with by the competent person.
4. A breach of the law on tax shall only be penalized once.

Where a number of persons jointly commit a breach of the law on tax, each offender shall be penalized.

A person who commits several breaches of the law on tax shall be penalized for each breach.

5. Penalties for breaches of the law on tax shall be based on the nature and seriousness of the offence, and any attenuating or aggravating circumstances, in order to issue an appropriate decision on the form of penalty.
6. The order and procedures for penalties for breaches of the law on tax shall be carried out in accordance with regulations of the Government.
7. Where a breach of the law on tax is serious enough to warrant prosecution for criminal liability, the criminal law and the law on criminal proceedings shall apply.

Article 105 *Penalties for breaches of tax procedures*

1. Conduct in breach of tax procedures shall comprise:

- (a) Submitting a tax registration file after the deadline for submission of tax registration files;
 - (b) Submitting a tax declaration file within ninety (90) days after the deadlines for submission stipulated in articles 32.1, 32.2, 32.3 and 32.5 of this Law or after expiry of the extended time-limit for submission as stipulated in article 33 of this Law;
 - (c) Submitting a tax declaration file within the period from the deadline for submission of customs declarations to the date before the date of disposal of unclaimed goods pursuant to the *Law on Customs* in the case stipulated in article 32.4(a) of this Law;
 - (d) Failing to declare all of the items of a tax file, unless the taxpayer makes an additional declaration within the stipulated period;
 - (dd) Committing a breach of the regulations on provision of information relevant to determination of a tax obligation;
 - (e) Committing a breach of the regulations on observance of a decision on tax check or tax inspection or on compulsory enforcement of an administrative tax decision.
2. A breach of tax procedures shall not be dealt with where the taxpayer is entitled to an extension of the time-limit for submission of tax declaration files or of the period for tax payment.
 3. The Government shall issue detailed regulations on penalties for each act in breach of tax procedures.

Article 106³⁸ *Dealing with late payment of tax*

1. Any taxpayer making a late payment of tax in comparison with the stipulated period or extended period for tax payment, or the deadline stated in a notice or decision of the tax management body on penalty, must pay in full the amount of tax payable plus a late payment charge at the accumulative rate of 0.05% of the amount of tax for each day of late payment where the number of days of late payment does not exceed ninety (90) days; or 0.07% of the amount of tax for each day of late payment where the number of days of late payment exceeds ninety (90) days.
2. Any taxpayer conducting a wrong declaration resulting in a reduction of the amount of tax payable, but voluntarily rectifying consequences by way of paying in full the amount of tax payable before the competent body detects the error, shall be subject to a late payment charge but shall not be subject to a penalty for a breach of administrative tax procedures, shortfall of tax or tax evasion.

In the case of import or export goods, a taxpayer detecting errors which affect the amount of duty payable and paying on its own initiative the shortfall of duty to the State budget within sixty (60) days from the date of registration of a customs declaration as provided in article 34.2(b) of this Law, shall be subject to a late payment charge in accordance with this article but shall not be subject to a penalty for a breach of administrative tax procedures, shortfall of tax or tax evasion.

3. A taxpayer shall personally determine the amount of late payment charge on the basis of the amount of tax paid late, the number of days of late payment and the rate stipulated in clause 1 of this article.

³⁸ Allens footnote: Article 106 was amended by Law 21.

Where a taxpayer fails to personally determine or determines wrongly an amount of late payment charge, the tax management body shall determine the amount of late payment charge and notify it to the tax payer.

4. Where a taxpayer fails to pay the amount of tax and a late payment charge within thirty (30) days after expiry of the time-limit for tax payment, the tax management body shall notify the taxpayer of the outstanding amount of tax and the late payment charge.
5. A body or organization authorised by the tax management body to collect tax which transfers tax payment, late payment charges or fines of taxpayers into the State Budget late must pay a late payment charge on the amount transferred late according to the rate provided in clause 1 of this article.

Article 107³⁹ *Penalties applicable to wrong declarations leading to a shortfall in amount of tax payable or an excess in amount of tax refunded*

1. Any taxpayer who has reflected fully and truthfully economic activities giving rise to tax obligations in the accounting books, invoices and source documents but has made a wrong declaration resulting in a reduction of the amount of tax payable or an increase in the amount of tax refundable, must pay in full the shortfall or return the excess amount of tax and shall be subject to a fine of 20% on the shortfall of tax or excess amount of tax refunded plus a late payment charge on the shortfall of tax or excess amount of tax refunded.
2. In respect of export or import goods for which a taxpayer has made a wrong declaration resulting in a reduction of the amount of tax payable or an increase in the amount of tax exempted, reduced or refundable but which do not fall under the cases provided in article 108.6 and 108.7 of this Law, in addition to the full payment of the shortfall and late payment charge as regulated, the taxpayer shall be subject to a penalty as follows:
 - (a) Penalty of 10% on the shortfall of tax or excess amount of tax exempted, reduced or refunded where the taxpayer itself discovers [the error] and make an amendment to the declaration after the time-limit of sixty (60) days from the date of registration of the declaration but before a tax check or inspection is conducted by the customs office at the head office of the tax payer in accordance with article 34.2 of this Law;
 - (b) Penalty of 20% on the shortfall of tax or excess amount of tax exempted, reduced or refunded which does not fall under paragraph (a) of this clause.

Article 108 *Penalties applicable to acts of tax evasion or tax fraud*

Any taxpayer committing any of the following acts of tax evasion or tax fraud shall pay in full the amount of tax payable pursuant to the regulations and shall be fined an amount of up to three times the amount of the tax evaded:

1. Failing to submit a tax registration file; failing to submit a tax declaration file; failing to submit a tax declaration file within ninety (90) days after the deadline for submission stipulated in clauses 1, 2, 3 and 5 of article 32 of this Law or from the expiry date of the extended time-limit for submission stipulated in article 33 of this Law.
2. Failing to record revenue relating to determination of an amount of tax payable in accounting books.

³⁹ Allens footnote: Article 107 was amended by Law 21.

3. Failing to issue an invoice upon selling goods or services, or recording a value lower than the actually paid value of goods or services sold on a sale invoice.
4. Using unlawful invoices or source documents for cost accounting of input raw materials or goods in activities giving rise tax obligations, resulting in a reduction of the amount of tax payable or an increase in the amount of tax creditable or refundable..
5. Using unlawful source documents or other documents to determine falsely an amount of tax payable or refundable.
- 6.⁴⁰ Conducting an incorrect declaration of actual import or export goods but failing to make an additional declaration to the tax declaration file after the goods have undergone customs clearance.
7. Intentionally failing to conduct a declaration or conducting a false declaration of duty payable on import or export goods.
8. Colluding with a goods consigner to evade duty payable on import goods.
- 9.⁴¹ Using duty-free goods or goods which are duty exempted or considered for tax exemption for an improper purpose without declaring to the tax management body the conversion of purpose of use.

Article 109 *Authority to penalize breaches of the law on tax*

1. In the case of breaches specified in article 103.1 of this Law, the authority to penalize [such breaches] shall be subject to this Law and the law on penalties for administrative offences.
2. In the case of breaches specified in clauses 2, 3 and 4 of article 103 of this Law, the head of a tax management body, the Director of the Department of Anti-Smuggling Investigation and the Director of the Department of Post-Customs Clearance Inspection under the General Department of Customs shall have authority to issue a decision penalizing a breach of the law on tax.

Article 110⁴² *Limitation period for applying penalties for breach of the law on tax*

1. In the case of a breach of tax procedures, the limitation period for applying penalties shall be two years from the date on which the breach was committed.
2. In the case of acts of tax evasion or tax fraud not serious enough to warrant prosecution for criminal liability, or wrong declaration resulting in a reduction of the amount of tax payable or an increase in the amount of tax exempted, the limitation period for applying penalties shall be five years from the date on which the breach was committed.
3. Upon expiration of the limitation period for applying penalties for a breach of the law on tax, a taxpayer shall not be penalized but must still pay in full the shortfall of tax, or evaded or defrauded amount of tax or late payment charges into the State budget for the period of ten years preceding the date of discovery of the breach. A taxpayer who does not have tax registration must pay in full the shortfall of tax, or evaded or defrauded amount of tax or late payment charges for the entire period preceding date of discovery of the breach.

⁴⁰ Allens footnote: Clause 6 was amended by Law 21.

⁴¹ Allens footnote: Clause 9 was amended by Law 21.

⁴² Allens footnote: Article 110 was amended by Law 21.

Article 111 *Exemption from penalties for breach of the law on tax*

1. A person subject to a penalty for a breach of the law on tax shall be entitled to request exemption from penalties for a breach of the law on tax in a case where he or she suffers loss from a natural calamity, fire, unexpected accident or other event of *force majeure*.
2. Offenders who have implemented a decision on a penalty for a breach of the law on tax issued by a tax management body or competent State body shall not be exempted from penalties for a breach of the law on tax.
3. The Government shall regulate powers and procedures for exemption from penalties.

Article 112 *Dealing with breaches of the law on tax by tax management bodies*

1. Any tax management body improperly implementing this Law and causing loss to a taxpayer shall compensate such taxpayer for the loss pursuant to law.
2. Where a tax management body is at fault in fixing or refunding tax, such tax management body shall compensate the taxpayer for any loss pursuant to this Law and other relevant laws.

Article 113 *Dealing with breaches of the law on tax by tax management officials*

1. Any tax management official who causes trouble or difficulties to a taxpayer affecting the lawful rights and benefits of the taxpayer shall, depending on the nature and seriousness of the breach, be subject to disciplinary action or prosecution for criminal liability, and shall compensate the taxpayer for any loss pursuant to law.
2. Any tax management official who is irresponsible or fails to deal with [an issue] in accordance with the law on tax shall, depending on the nature and seriousness of the breach, be subject to disciplinary action or prosecution for criminal liability, and shall compensate the taxpayer for any loss pursuant to law.
3. Any tax management official who takes advance of his or her position or powers to collude or cover up a taxpayer or an organization engaged in the business of services for performance of tax procedures shall, depending on the nature and seriousness of the breach, be subject to disciplinary action or prosecution for criminal liability pursuant to law.
4. Any tax management official who takes advance of his or her position or powers to illegally use or misappropriate an amount of tax, late payment charge or fine for a breach of the law on tax shall, depending on the nature and seriousness of the breach, be subject to disciplinary action or prosecution for criminal liability, and shall compensate the State for the whole of the illegally used or misappropriated tax, late payment charge or fine pursuant to law.

Article 114 *Dealing with breaches by commercial banks, credit institutions and guarantors of tax payment*

1. Any commercial bank or other credit institution which fails to perform the responsibility to transfer an amount of tax, late payment charge or fine for a breach of the law on tax payable by a taxpayer from a bank account of the taxpayer to the account of the State budget upon the request of a tax management body, shall be dealt with as follows on a case-by-case basis:
 - (a) The commercial bank or other credit institution shall not be penalized in a case where there is no balance in the deposit account of the taxpayer at that time or if the whole of the balance of the account of the taxpayer was transferred to the account of the State budget but such

[transferred] money was insufficient to cover the amount of the tax, late payment charge or fine payable by the taxpayer for a breach of the law on tax.

- (b) The commercial bank or other credit institution shall be penalized for a breach if the balance in the bank account of the taxpayer at that time was sufficient or excessive to cover the amount of tax, late payment charge or fine payable by the taxpayer for a breach of the law on tax, but the commercial bank or credit institution failed to transfer the whole or part of the balance corresponding to the amount of money payable by the taxpayer, and shall be fined an amount corresponding to the amount of money not transferred to the account of the State budget.
- 2. Any guarantor for performance of a tax obligation shall be liable to pay the amount of tax, late payment charge or fine for the guaranteed taxpayer in a case where such taxpayer failed to make tax payment into the account of the State budget or committed a breach of the law on tax.

Article 115 *Dealing with breaches of the law on tax by related organizations and individuals*

- 1. Any related organization or individual colluding with or covering up a taxpayer for tax evasion or tax fraud or failing to implement a decision on compulsory enforcement of an administrative tax decision shall, depending on the nature and seriousness of the breach, be dealt with administratively or shall be subject to prosecution for criminal liability pursuant to law.
- 2. Any related organization or individual failing to perform its, his or her responsibilities in accordance with this Law shall, depending on the nature and seriousness of the breach, be dealt with administratively or shall be subject to prosecution for criminal liability pursuant to law.

CHAPTER XIII

Complaints and Denunciations, Institution of Legal Proceedings

Article 116 *Complaints and denunciations*

- 1. Any taxpayer, organization or individual shall be entitled to lodge a complaint with the tax management body or the competent State body for reconsideration of a decision of a tax management body or of an administrative act of a tax management official when there are grounds for believing such decision or act was contrary to law or infringed upon its, his or her lawful rights and interests.
- 2. Any citizen shall be entitled to lodge a denunciation regarding a breach of the law on tax committed by a taxpayer, a tax management official or any other organization or individual.
- 3. Powers, procedures and time-limits for resolution of complaints or denunciations shall be subject to the law on complaints and denunciations.

Article 117 *Institution of legal proceedings*

The institution of a legal proceeding against a decision of a tax management body or a tax management official shall be subject to the law on procedures for resolution of administrative cases.

Article 118 *Responsibilities and powers of tax management bodies for resolution of complaints and denunciations about tax*

1. Upon receipt of a complaint regarding implementation of the law on tax, the tax management body shall consider and resolve it within the time-limit stipulated by the law on complaints and denunciations.
2. Any tax management body which receives a complaint regarding implementation of the law on tax shall be entitled to request the complainant to provide files and documents relating to the complaint; and shall be entitled to refuse to consider and resolve the complaint if the complainant refuses to provide files and documents.
3. The tax management body shall refund any incorrectly collected amount of tax, late payment charge or fine to the taxpayer or a third party within fifteen (15) days from the date of receipt of the decision on resolution from the superior tax management body or the competent authority pursuant to law.

CHAPTER XIV

Implementing Provisions

Article 119 *Effectiveness*

1. This Law shall be of full force and effect as from 1 July 2007.
2. All provisions on tax management in laws and ordinances on tax and in the *Law on Customs* which are now regulated in this Law are hereby repealed.

Article 120 *Implementing guidelines*

The Government shall issue detailed regulations and guidelines on articles 9, 19, 27, 30, 31, 32, 42, 43, 49, 60, 62, 72, 76, 89, 90, 91, 99, 104, 105 and 111 of this Law and on other items necessary for tax management in order to implement this Law.

This Law was passed by Legislature XI of the National Assembly of the Socialist Republic of Vietnam at its 10th Session on 29 November 2006.

Chairman of the National Assembly
NGUYEN PHU TRONG