

THE MINISTRY OF FINANCE

CIRCULAR No. 113/2005/TT-BTC OF DECEMBER 15, 2005, GUIDING THE IMPLEMENTATION OF THE IMPORT TAX AND EXPORT TAX LAW

Pursuant to Law No. 45/2005/QH11 on Import Tax and Export Tax; the Government's Decree No. 149/2005/ND-CP of December 8, 2005, detailing the implementation of the Import Tax and Export Tax Law;

Pursuant to June 29, 2001 Law No. 29/2001/ QH10 on Customs; June 14, 2005 Law No. 42/2005/QH11 Amending and Supplementing a Number of Articles of the Customs Law; the Government's Decree No. 154/2005/ND-CP of December 15, 2005, detailing a number of articles of the Customs Law on customs procedures, inspection and supervision;

Pursuant to the Government's Decree No. 155/2005/ND-CP of December 15, 2005, providing for the customs valuation of imports and exports;

Pursuant to the Government's Decree No. 66/2002/ND-CP of July 1, 2002, providing for luggage quotas for people on entry or exit, and imported gifts and presents entitled to tax exemption;

The Ministry of Finance hereby guides the implementation of import tax and export tax as follows:

PART A

GENERAL PROVISIONS

I. Taxable objects:

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

1. Goods exported or imported through Vietnamese border gates or border, including goods exported or imported through border gates on land, rivers, at seaports, airports, transnational railways, international posts and other customs procedure clearance venues established under decisions of competent state agencies.

2. Goods brought from the domestic market into non-tariff zones and vice versa.

3. Other traded or exchanged goods that are considered imports or exports.

II. Non-taxable objects:

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

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

III. Taxpayers; subjects authorized to pay tax or allowed to pay tax on behalf of others or to guarantee tax payment:

1. Taxpayers specified in Article 4 of the Import Tax and Export Tax Law, including:
 - 1.1. Owners of imports or exports.
 - 1.2. Organizations undertaking consignment of goods export or import.
 - 1.3. Individuals having imports or exports upon entry or exit; sending or receiving goods through Vietnamese border gates or border.
2. Subjects authorized to pay tax or allowed to pay tax on behalf of others or to guarantee tax payment, including:
 - 2.1. Customs procedure clearance agents, for cases where they are authorized by taxpayers to pay import or export tax.
 - 2.2. Enterprises providing international postal or express mail services, for cases where they pay

taxes on behalf of taxpayers.

2.3. Credit institutions or other organizations operating under the Law on Credit Institutions, for cases of providing guarantee for, or paying tax on behalf of, taxpayers under the provisions of Section III, Part C of this Circular.

IV. Application of treaties

Where a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions on import tax or export tax different from those of this Circular, the provisions of such treaty shall apply.

V. Tax on goods bought, sold or exchanged by border residents:

Goods bought, sold or exchanged by border residents within certain quotas shall be tax-free, their quantities in excess of such quotas shall be taxed.

Tax-free quotas of goods bought, sold or exchanged by border residents shall comply with the Prime Minister's decisions.

VI. Customs valuation:

1. The customs valuation provided for in this Circular is aimed to calculate taxes and make statistics on exports and imports.

1.1. Customs value used for the taxation purpose (hereinafter referred to as dutiable value) shall be determined on the principles and by the method provided for at Point 1.2, Section I, Part B of this Circular.

1.2. Customs value used for the statistical purpose (hereinafter referred to as statistical value) shall be determined on the following principles:

1.2.1. For taxable goods, their statistical value shall be their dutiable value already determined on the principle and by the method stated at Point 1.2, Section I, Part B of this Circular.

1.2.2. For goods which are not liable to tax, tax free, are considered for tax exemption or the dutiable value of which cannot be determined under the provisions of Point 1.2, Section I, Part B of this Circular, their statistical value shall be the value declared by customs declarants.

Statistical value data shall be collected, preserved and used under current regulations on customs statistics.

2. The determination of dutiable value shall be based on information and documents recorded and reflected on accounting principles laid down in Vietnam's Accounting Law and general accounting principles accepted by concerned countries.

VII. Exchange rates for the dutiable value determination, tax payment currency:

1. The rate of exchange between Vietnam dong and a foreign currency used for the dutiable value determination shall be the average transaction exchange rate on the interbank foreign currency market publicized by the State Bank of Vietnam at the time of tax calculation, published on Nhan Dan (People) daily and the website of the State Bank of Vietnam; on a day when Nhan Dan daily is not published or is published without exchange rate information or no exchange rate information is put on the website or reaches the border gate, the preceding day's exchange rate already used for determination of the dutiable value shall be used.

Where a taxpayer makes declaration before the date of registration of the customs declaration, the exchange rate used on the date of declaration shall be used, provided that such date is no more three days earlier than the date of registration of the customs declaration.

For a foreign currency for which the average exchange rate of transactions on the interbank foreign currency market has not yet been publicized by the State Bank of Vietnam, its exchange rate shall be determined on the basis of the USD-VND exchange rate and the exchange rate between the USD and such foreign currency publicized by the State Bank of Vietnam at the time of tax calculation.

2. Tax payment currency: Import tax and export tax may be paid in Vietnam dong or a freely convertible foreign currency. Such foreign currency shall be converted into Vietnam dong at the average transaction exchange rate on the interbank foreign currency market publicized by the State Bank of Vietnam at the time of tax calculation.

VIII. Interpretation of terms:

The terms used in this Circular shall be interpreted as follows:

1. Goods sale and purchase contract means an agreement in the written form on goods sale and purchase for importing goods into Vietnam, whereby the seller is obliged to deliver goods and transfer the ownership thereof to the buyer and receive a sum of money; the buyer is obliged to pay a sum of money to the seller and receives the goods. Telegraphs, telexes, faxes, e-mails and other electronic communication forms printed on paper shall also be considered to be in written form.

2. Buying commission means a sum of money paid by the buyer to his/her representing agent for buying imports at the most reasonable price.

3. Sale commission means a sum of money paid by the seller to his/her representing agent for selling exports to the buyer.

4. Brokerage charge means a sum of money paid by the buyer or seller or both buyer and seller to the broker who assumes the intermediate role in the transaction of buying imports.

5. Royalties and license fee mean sums of money paid directly or indirectly by the buyer to the

copyright holder or licensor for using a product for which intellectual property rights have been registered. For example, money paid for patents, design copyrights, trademarks, trademark use rights, authorship or production permits.

6. Goods shall be regarded to be of approximate values if the difference of these values is affected by the following objective factors:

- The nature of goods, characteristics of goods manufacturing industries;
- The seasonability of goods;
- Insignificant commercial difference. .

In considering the approximation of two values, they must be put under the same sale and purchase conditions.

7. Identical imports are imports which are the same in all aspects, including:

- Physical characteristics, such as product appearance, constituent materials, manufacturing method, functions, use purposes, mechanical, physic, chemical characteristics;
- Product quality;
- Reputation of trademarks;
- Being made in the same country, by the same manufacturer or authorized manufacturer;

Imports shall also be considered identical if they basically meet all conditions on identical imports except for insignificant differences in appearance, such as color, shape and design, which, however, do not affect their value.

Imports shall not be considered identical if the process of manufacturing one of these goods involves similar technical designs, construction designs, development plans, artistic designs, design drawings, plans, sketches or service products which are made in Vietnam and supplied free of charge by the buyer to the seller.

8. Similar imports are goods which, though not alike in all aspects, have the same basic characteristics, including:

- Having like component materials and being made by the same manufacturing method;
- Having the same function and use purposes;
- Being of the same quality;
- Being commercially interchangeable, namely, buyers will accept the substitution of this good by the other good;
- Being manufactured in the same country, by the same manufacturer or the same authorized

manufacturer, and imported into Vietnam.

Imports shall not be considered similar if the process of manufacturing one of these goods involves similar technical designs, construction designs, development plans, artistic designs, design drawings, plans sketches or service products which are made in Vietnam and supplied free of charge by the buyer to the seller.

9. Goods sold immediately after being imported mean goods sold by the importer to the first-time purchaser on the domestic market after being imported.

For example, after importing goods, importer A sells such goods to first-time purchasers M, N and K at different commercial levels. M, N and K then sell such goods to buyers E, F and G. In this case, goods sold by A to M, N and K are goods sold immediately after being imported.

10. Imports of the same class or kind are those belonging to one group or a range of groups of goods manufactured by a particular industry or industry sector, including identical and similar imports.

For example: Construction steel commodities, including steel rod, twisted and shaped steel (in the shapes of letters U, I, V, etc.), manufactured by the steel manufacture industry, are of the same kind.

- In the method of determining the dutiable value on the basis the deductible value, imports of the same class or kind are goods imported from any other country into Vietnam, regardless of their origin.

- In the method of determining the dutiable value on the basis of the computed value, imports of the same class or kind are imported goods of the same origin as goods being valued.

11. First border-gate of importation means the port of destination shown on the bill of lading. For transportation by road, railway or river, the first border gate of importation is the port of destination stated in the contract.

PART B

TAX BASES, TAX CALCULATION METHODS

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

1. Tax bases:

1.1. Quantity of imports or exports:

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

1.2. Dutiable value:

1.2.1. For exports, the dutiable value is the selling price at the export border-gates (FOB or DAF price), exclusive of insurance (I) and freight (F).

1.2.2. For imports, the dutiable value is the actual payable prices up to the first border gate of importation and determined by applying in the sequential order six methods of determining the dutiable value specified from Section I to Section VI, Appendix 1 to this Circular, immediately stopped at the method by which the dutiable value finally is determined.

Where the customs declarant files a written request, the order of application of the methods of determining the dutiable value provided for in Section IV or Section V in Appendix 1 to this Circular may be reversed.

1.3. Tax rates:

1.3.1. Export tax rates: Export tax rates are specified for every goods item in the Export Tax Tariffs promulgated by the Ministry of Finance.

1.3.2. Import tax rates: Import tax rates, specified for every goods item, include preferential tax rates, special preferential tax rates and ordinary tax rates:

1.3.2.1. Preferential tax rates are applicable to imported goods originated from countries or groups of countries or territories which implement most favored-nation treatment in trade relations with Vietnam (these countries, groups of countries and territories are publicized by the Ministry of Trade). Preferential tax rates are specified for every goods item in the Preferential Import Tariffs promulgated by the Ministry of Finance. Taxpayers shall declare the origin of goods by themselves and be answerable before law there for.

1.3.2.2. Special preferential tax rates are applicable to imported goods originated from countries, groups of countries or territories which implement especially preferential treatment concerning import tax rates with Vietnam under the regime of free trade areas, tariff alliance, or aiming to facilitate border trade flows and other cases of special preferential treatment.

Conditions for application of especially preferential tax rates:

- Imported goods must have certificates of origin (C/O) from countries, groups of countries or territories which have reached agreements with Vietnam on especially preferential treatment concerning import tax rates. For goods originating from countries, groups of countries or territories which have reached agreements with Vietnam on especially preferential treatment concerning import tax rates, the total value of each batch of which does not exceed USD 200, C/Os shall not be required.

- Imported goods must be items specified in the agreements and meet all conditions stated in such agreements.

- Certificates of goods (C/Os) must be compliant with current provisions of law on origin of goods;

- Other conditions (if any) for application of specially preferential tax rates shall comply with specific provisions in separate guiding documents applicable to each particular country, group of countries or territory with which Vietnam has reached an agreement on specially preferential tax rates.

1.3.2.3. Ordinary tax rates are applicable to imported goods originating from countries, groups of countries or territories which do not implement most-favored nation treatment or special treatment regarding import tax toward Vietnam.

The uniformly applied ordinary tax rate is 150% of the preferential tax rate of each goods item specified in the Preferential Import Tax Tariffs.

Ordinary

$$\text{tax rate} = \text{Preferential tax rate} \times 150\%$$

The classification of goods for the purpose of determining different tax rates stated at Point 1.3 of Section I must abide by the goods classification principles provided for in separate guiding documents promulgated by the Ministry of Finance.

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

2. Tax calculation methods:

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

$$\text{Payable import or} = \begin{matrix} \text{Actually} \\ \text{imported or} \\ \text{exported} \\ \text{quantity of} \\ \text{units of each} \end{matrix} \times \begin{matrix} \text{Dutiable} \\ \text{value} \\ \text{of each} \end{matrix} \times \begin{matrix} \text{Tax rate} \\ \text{of the} \\ \text{goods} \end{matrix}$$

| | | | |
|------------|--|------------------|-------------------|
| export tax | goods item specified in the customs declaration | unit of goods | item concerned |
|------------|--|------------------|-------------------|

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

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

II. Goods subject to absolute tax:

1. Tax bases:

1.1. Quantity of imported or exported goods:

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

1.2. Level of absolute tax per unit of goods

2. Tax calculation method:

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

Payable import or export tax amount = Actually imported or exported quantity of units of each goods item written in the customs declaration x level of absolute tax per unit of goods

PART C

TAX DECLARATION, TAX PAYMENT

I. Tax declaration: Payers of import tax or export tax shall have to declare tax right in customs declaration forms.

II. Time of tax calculation:

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

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

III. Tax payment time limit

1. Export tax payment time limit:

For exports, it is 30 (thirty) days as from the date taxpayers register their customs declarations.

2. Import tax payment time limit:

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

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

Past the guarantee duration, if the taxpayer fails to completely pay the tax, the guarantor shall have to pay the tax and a fine for late payment (if any) on behalf of the taxpayer. The time of late payment of tax shall be counted from the date of expiration of the guarantee duration.

2.1.2. Where consumer goods are imported in direct service of security, defense, scientific research or education and training, and are entitled to consideration of import tax exemption, the tax payment time limit shall be 30 days, counting from the date taxpayers register their customs declarations.

2.2. Import tax payment time limit for taxpayers that have well observed tax laws:

Taxpayers that have well observed tax laws are goods owners that have well observed customs law

and owed no overdue tax debts or fines for late tax payment at the time of registration of customs declarations.

2.2.1. For imported supplies or raw materials for direct use in production of goods for export, the tax payment time limit shall be 275 (two hundred seventy five) days, counting from the date taxpayers register their customs declarations.

2.2.1.1. The condition for application of the 275day tax payment time limit is a written registration of supplies and/or raw materials imported for direct production of goods for export;

For some special cases where the supplies and raw materials-reserving cycle is longer than 275 days, the tax payment time limit may be longer than 275 days. Taxpayers shall submit their requests therefore to the General Department of Customs for consideration and decision on a case-by-case basis.

2.2.1.2. If taxpayers can only export their goods or cannot export their goods past the tax payment time limit, they shall be handled as follows:

- For the quantity of raw materials and supplies imported for use in the production of products which, however, are not exported, the late tax payment fine shall be calculated from the 31st day (counting from the date of registration of customs declarations) to the date of tax payment.

- For the quantity of imported raw materials and supplies already used in the production of products which are actually exported after the tax payment time limit, the late tax payment fine shall be calculated from the date following the expiration of the tax payment time limit to the date of actual exportation or the date of tax payment (if tax is paid before the date of actual exportation).

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

2.2.2. Where goods are traded in the manner of temporary export for re-import or temporary import for re-export, the tax payment time limit shall be 15 (fifteen) days, counting from the date of expiration of the time limit for temporary export for re-import or temporary import for re-export (applicable also to cases of permitted extension).

Where an enterprise is entitled to the application of the tax payment limit for goods traded in the manner of temporary export for re-import or temporary import for re-export but fails to export its products or exports its products after the tax payment time limit, it shall be handed as follows:

- For failure to export products, the late tax payment fine shall be calculated from the 31st date (counting from the date of registration of customs declarations) to the date of tax payment;

- For exportation of goods after the tax payment time limit, the late tax payment fine shall be calculated from the date following the expiration of the tax payment time limit to the date of actual exportation or the date of tax payment (if tax is paid before the date of actual exportation).

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

2.3. Tax payment limits for taxpayers failing to well observe tax laws:

2.3.1. If payable tax amounts are guaranteed by a credit institution or another organization operating under the Law on Credit Institutions, the tax payment time limit shall be the guarantee duration which must, however, not exceed the time limit specified for each case stated at Point 2.2 of this Section. Past the guarantee duration, in case the guarantee duration is shorter than the tax' payment time limit, or past the tax payment time limit in case the guarantee duration is equal to or longer than the tax payment time limit, if a taxpayer fails to completely pay tax, the guarantor shall have to pay the tax and late tax payment fine (if any) on behalf of the taxpayer. The late payment period shall be counted from the date following the expiration of the guarantee duration or from the expiration of the tax payment time limit according to the aforesaid regulations.

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

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

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

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

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

3.4. Where technical standard, quality, quantity or kind expertise is required to ensure accurate tax calculation (such as determination of the appellation of the goods item and its code according to the

import tax tariffs, the quality, quantity, technical standards, the condition of imported goods (old or new)...), taxpayers must still pay tax according to their declarations at the time of registration of customs declarations with customs offices; meanwhile, customs offices must notify taxpayers of the expertise reasons, and if the expertise results are different from taxpayers' declarations, taxpayers must pay tax according to expertise results.

Expenses connected with the expertise shall be paid by customs offices in case expertise results are different from customs offices' conclusions or by taxpayers in case expertise results are the same as customs offices' conclusions.

PART D

TAX EXEMPTION, CONSIDERATION OF TAX EXEMPTION, TAX REDUCTION

I. Tax exemption:

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

1. Goods temporarily imported for re-export or temporarily exported for re-import for participation in trade fairs, exhibitions or product displays; machinery, equipment and professional equipment temporarily imported for re-export or temporarily exported for re-import in service of meetings, seminars, scientific research, sport competitions, cultural performances, artistic performances, medical examination and treatment... within 90 days at most (excluding machinery and equipment temporarily imported for re-export eligible for consideration of tax refund specified at Point 9, Section I, Part E of this Circular). At the end of trade fairs, exhibitions or product displays or events as provided for by law, temporarily exported goods must be re-imported into Vietnam or temporarily imported goods must be exported abroad.

2. Moveable property brought by Vietnamese or foreign organizations or individuals into Vietnam or abroad within prescribed limits, including:

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

2.2. Moveable property brought by Vietnamese organizations or individuals that are permitted to go abroad for business or work and brought back into the country at the end of their business or working period.

2.3. Moveable property brought into Vietnam by overseas Vietnamese families or individuals that are permitted to settle in Vietnam or brought abroad by Vietnamese families or individuals that are permitted to settle in foreign countries; moveable property brought into Vietnam by foreigners that are permitted to settle in Vietnam or brought abroad by foreigners that are permitted to settle in foreign

countries;

Particularly for cars and motorbikes currently used by families or individuals that are permitted to settle in Vietnam, each family shall be exempt from import tax on only one car and one motorbike.

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

The procedures and dossiers for tax exemption in the cases stated at Points 1, 2 and 3 of this Section shall comply with the provisions of the Customs Law and documents detailing and guiding the implementation of the Customs Law.

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

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

Directors of processing enterprises shall bear responsibility for use norms, consumption norms and

waste ratios (hereinafter referred to as consumption norms) of goods imported for the processing purpose. If committing violations, they shall be handled according to law provisions.

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

The tax management and liquidation process applicable to imported or exported raw materials, supplies and imported or exported processed products shall comply with separate documents of the Finance Ministry.

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

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

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

| Ordinal number | Articles, items | Quota | Note |
|----------------|--|------------|--|
| 1 | Alcohol, alcoholic drinks: | | Under-18 people are not entitled to this quota |
| | - Alcohol of alcoholic strength by volume of 22% or more | 1.5 liters | |
| | - Alcohol of alcoholic strength by volume of under 22% | 2.0 liters | |
| | - Alcoholic drinks, beers | 3.0 liters | |
| 2 | Cigarettes: | | Under-18 people are not entitled to this quota |
| | - Cigarettes | 400 | |
| | - Cigars | 100 | |

| | | | |
|---|--|--|--|
| 3 | - Tobacco shreds | 50 grams | Under-18 people are not entitled to this quota |
| | Tea, coffee: | | |
| | - Tea | 5 kg | |
| 4 | - Coffee | 3 kg | |
| | Clothes, personal effects | In quantities appropriate to trip purpose | |
| 5 | Articles other than those stated above in 1, 2, 3 and 4 (not on the list of goods banned from import or subject to conditional import) | Total value shall not exceed VND 5,000,000 (five million Vietnam dong) | |

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

6. Goods imported for creation of fixed assets of projects eligible for investment encouragement specified in Appendix I or II to the Government's Decree No. 149/2005/ND-CP of December 8, 2005 or ODA-funded investment projects, including:

6.1. Equipment and machinery

6.2. Special-use means of transported included in technological lines, with certifications of the Ministry of Science and Technology; workers-transporting vehicles, including cars of 24 seats or more and waterway vehicles.

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

6.4. Raw materials and supplies used for manufacture of equipment or machinery included in technological lines or components, details, detached parts, fittings, molds and accessories accompanying equipment, machinery or special-use means of transport specified at Points 6.1 of this Section for synchronous assembly or use.

6.5. Construction supplies which cannot be made at home.

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

8. Goods imported by BOT enterprises and subcontractors for execution of BOT, BTO or BT projects, including:

8.1. Equipment and machinery imported for creation of fixed assets (including equipment,

machinery and spare parts used for survey, designing and construction activities).

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

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

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

9. The exemption from import tax for imported goods specified at Points 6, 7 and 8 of this Section shall also apply to the cases of expansion of projects' operation scale and replacement and renewal of technologies.

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

11. Tax exemption shall be granted to goods imported in service of oil and gas activities, including:

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

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

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

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

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

If goods mentioned at this Point 11 are imported by sub-contractors, other organizations or individuals for supply to organizations or individuals engaged in prospecting, exploring and exploiting oil and gas under oil and gas service contracts or goods supply contracts, they shall also be exempt from import tax.

At the end of the period for performance of goods supply contracts or service provision contracts,

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

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

13. Raw materials and supplies in direct service of the manufacture of software which cannot yet make at home shall be exempt from import tax.

14. Goods imported for direct use in scientific research and technological development shall be exempt from import tax, including: machinery, equipment, parts, supplies, means of transport which cannot be made at home, technologies which cannot be created at home; scientific documents, books, newspapers and journals and sources of electronic scientific and technological information.

15. Raw materials, supplies and components imported for production under projects on the list of domains eligible for special investment encouragement in Appendix I or on the list of geographical areas with extremely difficult socioeconomic conditions in Appendix II to the Government's Decree No. 149/2005/ND-CP of December 8, 2005; or in the domain of manufacture of mechanical, electric and electronic components and accessories, shall be exempt from import tax for 5 (five) years, counting from the date of commencement of production.

16. Raw materials, supplies and semi-finished products which cannot be made at home and imported for production under projects on the list of domains eligible for investment encouragement in Appendix I; semi-finished which cannot be made at home and imported for production under projects on the list of domains eligible for special investment encouragement in Appendix I or on the list of geographical areas with extremely difficult socioeconomic conditions in Appendix II to the Government's Decree No. 149/2005/ND-CP of December 8, 2005, shall be exempt from import tax for 5 (five) years, counting from the date of commencement of production.

17. Goods produced, processed, re-processed or assembled in non-tariff zones, when imported into the domestic market, shall be exempt from import tax if they are not made of raw materials and components imported from abroad; if they are made of raw materials and components imported from abroad, import tax shall be paid only for imported raw materials and components constituting such goods under a separate guiding document of the Ministry of Finance.

18. Machinery, equipment and means of transport imported by foreign contractors into Vietnam by the mode of temporary import for re export in service of construction of works or projects funded with official development assistance (ODA) sources shall be exempt from import tax and export tax upon re-export. At the end of the period for construction of works or projects, foreign contractors must

re-export the above-mentioned commodities. If wishing to liquidate or sell such commodities in Vietnam instead of re-exporting them, foreign contractors must obtain permission of a competent State agency and make declaration for payment of import tax thereon according to regulations.

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

For enterprises entitled to import tax exemption for creation of fixed assets in the cases stated in Section I, Part D of this Circular, if they do not import goods from abroad but buy import tax-free goods from other enterprises which are permitted to be sold on the Vietnamese market, they shall be allowed to receive such goods for creation of fixed assets and exempt from paying import tax thereon, while the enterprises selling such goods shall not have to pay import tax thereon.

Organizations or individuals that have won bids for import of goods (winning bids are exclusive of import tax) to be supplied to the subjects entitled to import tax exemption stated at Points 6, 7, 8, 9, 10,11,12,13,14,15,16 and 17, Section I, Part D of this Circular, shall be also exempt from import tax on such imported goods.

Procedures and order for settlement of tax exemption:

Pursuant to the tax exemption provisions of Section " Part D of this Circular (excluding Point 5); on the basis of the list of construction supplies; the list of supplies necessary for oil and gas activities; the list of raw materials, supplies and semi-finished products in service of shipbuilding; the list of raw materials and supplies in direct service of the manufacture of software products; the list of machinery, equipment, accessories, supplies, means of transport and technologies directly used for scientific research and technological development; the list of raw materials, supplies and semi-finished products which can be made at home, promulgated by the Ministry of Planning and Investment for determination of goods which cannot be made at home; the list of plant varieties and animal breeds permitted for import, promulgated by the Ministry of Agriculture and Rural Development; and documents guiding the detailed classification of production raw materials, supplies and components, promulgated by the Ministry of Trade, taxpayers shall make declaration by themselves and submit to customs offices that carry out customs procedures the following documents:

- A list of goods imported or exported free of tax (taxpayers shall be accountable for this list);
- A written undertaking to use tax-free objects for proper purposes;
- The notice on the winning bid, enclosed with the goods supply contract (for cases where bid winning organizations or individuals directly import goods or consign the import of goods), stating that the winning bid is exclusive of import tax;
- The import consignment contract (if any).

Customs offices that carry out customs procedures shall check and compare the documents

submitted by enterprises with current regulations so as to grant tax exemption on a case-by-case basis.

Where a taxpayer makes declaration at variance with current regulations, the customs office that carries out customs procedures shall re-calculate the payable tax amount and notify it to the taxpayer and, at the same time, impose sanctions against tax-related violations according to current regulations.

II. Tax exemption consideration:

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

1. Imported goods for exclusive use in direct service of national security or defense. A procedural dossier shall consist of:

- A written request for tax exemption consideration, made by the managing ministry;
- A detailed list of imported goods exclusively in direct service of security or defense together with their quantities and kinds, approved by the managing ministry's leadership, already registered with and agreed by the Finance Ministry at the beginning of the year (annually, by March 31 at the latest, the managing ministry must register the import plan);
- The customs declaration having gone through customs procedures;
- The contract on import or import consignment (if goods are imported under consignment) or the bid-winning notice enclosed with the goods supply contract (if the import of goods has been put up for bidding, the payment prices are exclusive of import tax).

2. Imported goods exclusively in direct service of scientific research, except for the case specified at Point 14, Section " Part D of this Circular. A procedural dossier shall consist of:

- A written request for tax exemption consideration, made by the scientific research unit;
- The scientific research subject dossier, comprising:
 - + The decision approving the research subject, issued by a specialized managing ministry;
 - + A list of goods to be imported for carrying out the research subject, approved by the specialized managing ministry;
- The customs declaration having gone through customs procedures;
- The import or import consignment contract (if goods are imported under consignment) or the bid winning notice enclosed with the goods supply contract (if the import of goods has been put for bidding, the payment prices are exclusive of import tax).

3. Imported goods for exclusive use in service of education and training:

A procedural dossier shall consist of:

- An official letter requesting tax exemption consideration, made by the education and training unit;
- The decision approving the investment project on procurement of equipment and facilities in

service of education and training, made by a specialized managing ministry;

- A list of equipment and facilities under the project, approved by a specialized managing ministry;
- The customs declaration having gone through customs procedures;
- The contracts on import or import consignment (if goods are imported under consignment) or the bid-winning notice enclosed with the goods supply contract (if the import of goods has been put for bidding, the payment prices are exclusive of import tax).

On the basis of the prescribed dossiers, the General Department of Customs shall consider and issue tax exemption decisions for the cases specified at Points 1, 2 and 3 above; the customs offices that carry out import procedures shall base themselves on the tax exemption decisions of the General Department of Customs to check and compare them with the original dossiers of the imported goods lots for effecting the liquidation of the exempted import tax amounts and clearly write on the customs declarations: "Goods exempt from tax under Decision No..., day... month... year... of..." 4. Gifts or presents:

Gifts or presents entitled to consideration of import or export tax exemption are goods which are permitted to be imported or exported, fall into the following specific cases of tax exemption consideration and are subject to the tax exemption consideration limits:

4.1. Exports:

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

4.1.2. Goods of foreign organizations or individuals which are donated as gifts or presents by Vietnamese organizations or individuals when they enter Vietnam for working, tourism or visit to their relatives, and are permitted to be exported.

4.1.3. Goods of Vietnamese organizations permitted for export for display at fairs or exhibitions or for advertisement, then donated as gifts or presents to organizations or individuals in foreign countries.

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

For organizations, their goods for use as gifts or presents valued at no more than VND 30 (thirty) million shall be exempt from export tax. For individuals, their goods for use as gift or presents valued at no more than VND 1 (one) million shall be exempt from export tax (not required to go through export tax exemption consideration procedures).

4.2. Imports:

4.2.1. Gifts or presents of a value not exceeding

VND 30 (thirty) million given by overseas organizations or individuals to Vietnamese organizations

shall be considered for tax exemption.

Vietnamese organizations are State agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations or people's armed force units.

4.2.2. Gifts or presents given by overseas organizations or individuals to Vietnamese individuals which have a value not exceeding VND 1 (one) million or a value exceeding VND one million but are subject to the total payable tax amount of under VND 50,000 shall be exempt from import tax (not required to go through import tax exemption consideration procedures). Where goods are addressed as gifts to individuals but actually presented to organizations (with written certifications thereof made by such organizations) and are managed and used by such organizations, the applicable tax exemption level shall be the same as that set for gifts or presents given by overseas organizations or individuals to Vietnamese organizations.

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

4.2.4. Goods of foreign organizations or individuals which are permitted for import into Vietnam as prizes in sport, cultural or art competitions... shall be considered for tax exemption if such prizes have a value not exceeding VND 2 (two) million each (for individuals) and VND 30 (thirty) million each (for organizations) and the total value of the imported goods lots for use as prizes does not exceed the total value of prizes in kind.

4.2.5. For individuals entering Vietnam, apart from the personal luggage quota, they shall also be exempt from import tax on goods carried along for use as gifts, presents or souvenirs which have a value not exceeding VND 1 (one) million or a value exceeding VND one million but are subject to the total payable tax amount of under VND 50,000 (not required to go through import tax exemption consideration procedures).

4.2.6. For goods of subjects entitled to temporary tax exemption which are not re-exported but temporarily imported on the spot (if goods temporarily imported on the spot are goods subject to conditional import at the time of temporary import on the spot, permission of a competent State agency shall be required) for use as gifts or presents to Vietnamese organizations or individuals, they shall be exempt from import tax if they are given as gifts or presents to organizations and valued at no more than VND 30 (thirty) million and if they are given as gifts or presents to individuals and valued at no more than VND 1 (one) million or at more than VND one million but subject to the total payable tax amount of under VND 50,000 (not required to go through import tax exemption consideration procedures).

4.2.7. Sample goods sent from overseas by organizations or individuals to Vietnamese

organizations or individuals and vice versa shall be subject to tax exemption consideration quotas applicable to gifts or presents, which, if given to organizations, are valued at no more than VND 30 (thirty) million or, if given to individuals, are valued at no more than VND 1 (one) million or at more than VND 1 (one) million but subject to the total payable tax amount of under VND 50,000 (not required to go through import tax exemption consideration procedures).

4.3. For goods given as gifts or presents having a value exceeding the tax exemption consideration quotas prescribed above, their excessive value shall be liable to import tax, except for the following cases where tax exemption is considered for the whole value of goods lots:

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

4.3.2. Lots of gifts or presents used for humanitarian, charity or scientific research purposes.

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

4.4. Tax exemption consideration procedural dossiers:

Procedural dossiers for consideration of exemption of tax on gifts, presents or sample goods, shall each consist of:

- A written request for consideration of tax exemption, made by the organization or individual that is given the gift or present;
- The notice, decision or agreement on the donation of gifts or presents; the written notice or agreement on the delivery of sample goods;
- The customs declaration having gone through customs procedures;
- The commune or ward People's Committee's written certification of the family with meritorious services to the revolution, war invalid, war martyr or supportless aged person (for the case specified at Point 4.3.3 above); Where gifts, presents or sample goods are carried by forwarding enterprises which will carry out customs procedures therefore, apart from the procedural dossier mentioned above, there must also be the gift, present or sample goods-receiving organizations' or individuals' letters of authorization of the forwarding enterprises to transport such goods and carry out customs procedures therefore.

For goods of subjects entitled to temporary tax exemption which are not re-exported but temporarily imported on the spot (if goods temporarily imported on the spot are those subject to conditional import at the time of temporary import on the spot, permission of a competent State agency shall be required) for use as gifts or presents to Vietnamese organizations or individuals, their procedural dossiers of request for consideration of tax exemption shall each consist of: (i) a written

request for consideration of tax exemption; (ii) The invoice or ex-warehousing bill on the lot of gifts or presents; and (iii) The gift or present hand-over and receipt record between the giver and the recipient.

On the basis of the dossiers and provisions above, local Customs Departments shall consider and issue tax exemption decisions for lots of gifts or presents given by foreign organizations or individuals to Vietnamese organizations or individuals and vice versa. Particularly for the cases 4.3.1 and 4.3.2 above, the Ministry of Finance shall consider and handle them on a case-by-case basis.

On the basis of tax exemption decisions, customs offices which carry out import procedures must liquidate the exempted tax amounts and clearly write on the customs declarations: "Goods exempt from tax under Decision No.....day...

Month... year... of ..."

Where imported goods are entitled to tax exemption consideration for which import tax has been paid, the paid import tax shall be refunded. Procedural dossiers of request for consideration of tax refund shall be similar to those of application for tax exemption for gifts, presents or sample goods. Particularly, written requests for consideration of tax exemption made by gift- or present-receiving organizations or individuals shall be replaced by written requests for tax refund made by gift- or present-receiving organizations or individuals, enclosed with tax payment vouchers.

5. For goods imported for sale at duty-free shops: customs offices shall manage them according to the regulations on management and supervision of goods imported for duty-free sale in the Regulation on Duty-Free Shops, issued together with the Prime Minister's Decision currently in force.

Where sale promotion goods or goods for trial use are supplied free by foreign parties to duty-free shops for sale together with goods on sale thereat, the quantities of these sale promotion goods or goods for trial use shall not be subject to import tax but shall be subject to customs supervision and management like goods imported for sale at duty-free shops.

Local Customs Departments shall organize the tax exemption and manage the goods on duty-free sale according to the provisions of this Point.

III. Tax reduction consideration:

For imported or exported goods which are damaged or lost in the course of customs supervision and such is certified by a competent expertising agency or organization, they shall be considered for tax reduction in proportion to their actual damage or loss percentage. Local Customs Departments shall consider and issue decisions on tax reduction based on the expertised quantity of actually lost and damaged goods.

PART E

TAX REFUND

I. Cases entitled to tax refund consideration

1. For imported goods for which import tax has been paid and which were still left in border-gate warehouses or storing yards under customs supervisions before being re-exported, there must be:

- A written request for refund of the paid import tax;
- The customs declaration of imported goods, with the calculated tax;
- The export goods customs declaration having gone through customs procedures, with the customs office's certification that the goods specified in which import goods customs declaration were still left in border-gate warehouses or storing yards under customs office's supervision have been actually exported;
- The tax payment voucher.

2. For exported or imported goods for which import or export tax has been paid but which are not imported or exported yet, there must be:

- A written request for refund of the paid import or export tax;
- The import or export goods customs declaration with the customs certification that the goods are not imported or exported yet;
- The tax payment voucher.

3. For goods for which import or export tax has been paid but which were imported or exported in smaller quantities, there must be:

- A written request for refund of the overpaid import or export tax;
- The import or export goods customs declarations having gone through customs procedures;
- The tax payment voucher;
- The goods sale or purchase invoice under the goods trading contract.

4. Goods for which import tax has been paid and which are then exported in the following cases:

4.1. For imported goods which are delivered or sold to foreign countries through agents in Vietnam; goods imported and sold on board means of foreign firms along international routes through Vietnamese ports and Vietnamese means along international routes according to the Government's regulations, there must be:

- A written request for refund of the import tax; - An official letter of the Ministry of Trade permitting the import (for goods required to have import permits of the Ministry of Trade);
- The import goods customs declarations having gone through customs procedures;
- The tax payment voucher;

- The goods sale invoice;
- The export goods customs declarations having gone through customs procedures;
- The goods delivery or sale agency contract and the goods supply contract or agreement;
- The via-bank payment voucher for the lot of exported goods.

4.2. Particularly for imported drinks to be served on board international flights, their dossier shall comprise:

- A written request for refund of the import tax; - An official letter of the Ministry of Trade permitting the import (for goods required to have import permits of the Ministry of Trade);
- The import goods customs declarations having gone through customs procedures;
- The tax payment voucher;
- The bill on the delivery and receipt of drinks on board international flights, with the certification of the airport customs office.

4.3. For enterprises engaged in exclusively importing certain goods (for example, petroleum...) and permitted to sell such goods to ocean shipping enterprises for resale to foreign sea-going ships, after selling goods to sea-going ships, importing enterprises shall be considered for import tax refund. A dossier of request for consideration of import tax refund shall comply with the provisions of Point 4.1 above and be sent to the customs offices which have carried out procedures for import of the goods lots. Apart from these documents, enterprises must additionally have:

- The contract or invoice on the sale of goods to an ocean shipping enterprise;
- The ocean shipping enterprise's written declaration of the quantity and value of goods purchased from the enterprise engaged in exclusively importing certain goods and actually supplied to foreign sea-going ships; a list of payment vouchers of foreign sea-going ships. Directors of enterprises shall be accountable before law for these lists.

5. Imported goods for which import tax has been paid and which are used for the production of goods for export shall be entitled to tax refund in proportion to the ratio of actually exported products, which are specifically determined as follows:

5.1. Raw materials and supplies entitled to import tax refund, including:

- Imported raw materials and supplies (including assembly components, semi-finished products, packages), directly constituting exported products;
- Raw materials and supplies directly used in the process of production of exported goods but not directly transformed into goods or not constituting products, such as paper, chalk, painting brushes, markers, clothe pins, printing ink, glue brushes, glue brooms, screen-printing frames, erasing crepe, varnishes,...
- Finished products imported by enterprises for attachment to or packing together with products into synchronous goods for export;

- Components and accessories imported for use as warranty goods for exported products.

5.2. Tax refund consideration cases, including:

5.2.1. Enterprises importing raw materials and supplies for the production of goods for export or organizing the hiring of domestic processing (including also the hiring of processing in non-tariff zones) or of processing overseas; or the case of joint production of export goods and receipt of products for export.

The procedural dossiers shall each consist of: - The enterprise's written request for refund of import tax on raw materials and supplies imported for production of export goods, clearly stating the quantity and value of raw materials and supplies imported and used for production of export goods; the paid import tax amount; the quantity of export goods, and the import tax amount requested for refund;

- The list of consumption norms of imported raw materials and supplies per product unit;
- The customs declaration of imported raw materials and supplies having gone through customs procedures; the import contract;
- The tax payment voucher;
- The customs declaration of export goods having gone through customs procedures; the export contract;
- The contract on export or import consignment, for cases of export or import consignment;
- The via-bank payment vouchers for export goods lots;
- The contract on joint production of export goods, for cases of joint production of export goods.

Where enterprises deliver raw materials and supplies into non-tariff zones or foreign parties for processing then receive products for production and/or export, apart from the above-mentioned papers, the following papers must be added:

- The customs declaration of raw materials and supplies exported for processing having gone through customs procedures; the customs declaration of products imported from non-tariff zones or abroad having gone through customs procedures.
- The tax payment voucher (for imported processed products).
- The processing contract signed with an enterprise in the non-tariff zone or with the foreign party.

5.2.2. For enterprises which import raw materials and supplies for production of goods for domestic consumption but later find export outlets (the permitted maximum duration is 2 years after the date of registration of customs declarations for such imported raw materials and supplies), then put such raw materials and supplies into the production of goods for export, and have exported products abroad, the procedural dossiers for tax refund shall be similar to those for the case stated at Point 5.2.1.

5.2.3. For raw materials and supplies (excluding finished products) imported for the performance of processing contracts (not supplied by foreign processes but imported by the processing enterprises themselves for the performance of processing contracts signed with foreign customers), after products

are actually exported, they shall be considered for import tax refund like raw materials and supplies imported for production of goods for export.

The procedural dossiers for import tax refund shall each include:

- A written request for refund of import tax on raw materials and supplies imported for the processing of goods for export, clearly explaining goods items, quantities and value of imported raw materials and supplies; the paid import tax amount; the quantity of exported products; and the import tax amount requested for refund;
- The list of consumption norms of imported raw materials and supplies for the production of a product unit for export;
- The customs declaration of imported raw materials and supplies having gone through customs procedures; the import contract;
- The import tax payment voucher;
- The customs declaration of exports (in the form of processing) having gone through customs procedures;
- The processing contract signed with the foreign customer, clearly specifying goods items, kinds, quantities of raw materials and supplies imported by the processing enterprise;
- The via-bank payment vouchers for exported goods lots;
- The contract on consignment of import of raw materials and supplies (for cases of export and import consignment).

5.2.4. For enterprises importing raw materials and supplies for the production of products but later using these products for the processing of goods for export under processing contracts with foreign parties, the procedural dossiers shall be the same as the case stated at Point 5.2.1 above. Particularly:

- The contract on export of products shall be replaced by the contract on processing of export goods signed with the foreign customer; the contract on purchase of products to be used for the processing contract and the contract on processing of products for export with the foreign customer can be expressed in one contract.
- The list of consumption norms of imported raw materials and supplies for the production of products to be put into the production of processed products and consumption norms of raw materials for the production of export products under the signed processing contract;
- The list of quantities of products produced by the enterprise, which were actually used for the production of goods for export, signed by the enterprise director who shall be answerable therefore before law.

5.2.5. For enterprises importing raw materials and supplies for the production of products for sale to other enterprises for direct production or processing of goods for export, after the export goods-manufacturing or- processing enterprises have exported such products, the enterprises importing raw materials and supplies shall be entitled to import tax refund corresponding to the quantities of such raw

materials and supplies used by other enterprises for the production of products which have been actually exported.

Where enterprises import raw materials and supplies for the production of products for sale to other enterprises for direct export in complete component sets, they shall be considered for refund of the import tax corresponding to the percentage of exported products (component sets), provided that: (i) products manufactured of imported raw materials and supplies by the enterprise constitute one of the details or components of the export component sets; (ii) the enterprises buy products for combination with details or components produced by the enterprises themselves in order to constitute exported component sets.

A dossier of request for import tax refund shall consist of:

- A written request for import tax refund, clearly explaining the quantity and value of imported raw materials and supplies for the production of goods for sale to exports-manufacturing enterprises; the quantity of sold goods, the quantity of exported products, the paid import tax amount; and the import tax amount requested for refund;

- The list of consumption norms of imported raw materials and supplies for the production of a unit of product sold to the enterprise manufacturing or processing goods for export.

- The customs declaration of imported raw materials and supplies having gone through customs procedures; the import contract;

- The tax payment voucher;

- The exporting enterprise's customs declaration of exported goods with the customs office's certification of the actual exportation;

- The sale invoice for the trading of goods between two units;

- The goods trading contract between the importing enterprise and the exports manufacturing or -processing enterprise, clearly stating that such goods will be used for the production or processing of goods for export (or for export in component sets); the voucher on payment for goods;

- The production or processing contract signed with the foreign customer (a photocopy certified as true copy by the enterprise);

- The product-exporting enterprise's declaration of the quantity and actual consumption norm of products bought for direct production of a unit of product for export; the list of payment vouchers for goods lots exported to the foreign customer, signed and sealed by the exporting enterprise's director who is answerable to law for the accuracy of the declared data.

- The export or import consignment contract (for goods exported or imported under consignment).

5.2.6. Enterprises importing raw materials and supplies for the production of products for sale to other enterprises for direct export. After the enterprises which buy products of the manufacturing enterprises have exported the products, the enterprises importing raw materials and supplies shall get the import tax refunded in proportion to the quantity of products actually exported.

A procedural dossier of request for import tax refund shall consist of:

- A written request for import tax refund, clearly explaining the quantities and value of imported raw materials and supplies; the paid import tax amount; the quantity of products already sold to the exporting enterprise; the quantity of products already exported; and the import tax amount requested for refund;
- The list of consumption norms of raw materials and supplies imported for the production of a unit of product sold to other enterprises for export;
- The customs declaration of imported raw materials and supplies having gone through customs procedures; the import contract;
- The tax payment voucher;
- The sale and purchase contract; sale invoices of the enterprise selling products to the product exporting enterprise; the list of payment vouchers for goods sale;
- The customs declaration of exported goods having gone through customs procedures;
- The goods export contract signed with the foreign customer (certified as true copy by the product-exporting enterprise);
- The via-bank payment vouchers for exported goods lots;
- The export consignment contract; the import consignment contract (for cases of export or import consignment).

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

- The goods-selling enterprise or the goods buying enterprise has paid value added tax by credit method (the enterprises produce a photocopy certified as true copy by themselves); the enterprises have been registered and granted tax identification numbers; there must be sale invoices for goods trading between the two units.
- Via-bank payment for exported goods under the Vietnam State Bank's regulations.
- Within 1 year at most (rounded to 365 days) from the time of importation of raw materials and supplies (counting from the date of registration of import goods declarations with customs offices) to the time of actual exportation of products.

5.2.7. Where enterprises import raw materials and supplies for the production of goods for sale to foreign traders but later deliver goods to other enterprises in Vietnam under designation by such foreign traders for use as raw materials for continued production or processing of goods, they shall follow the guidance in the Finance Ministry's Circular No. 90/2002/TT-BTC of October 10, 2002.

5.3. Where raw materials and supplies are imported for the production of goods for export, if products are actually exported within the tax payment time limit as provided for in Section III, Part C of this Circular, import tax shall not be paid on raw materials and supplies corresponding to the

actually exported quantity of goods. The dossiers of request for consideration of non-collection of tax shall be the same as those required for tax refund (excluding tax payment vouchers).

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

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

The consumption norms of raw materials and supplies used for the production of exports shall be set by enterprises themselves and their directors shall be accountable for the legal bases and accuracy of such norms and register them with customs offices which carry out import procedures. Where the registered norms are different from the actual norms, enterprises must immediately report such to the customs offices with which they have registered their norms, serving as a basis for tax refund based on the actual norms for actually exported products.

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

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

5.4.2. Where one kind of raw material or supply is imported for the production of two or more different kinds of products (for example: wheat is imported for the production of wheat flour, but two products, wheat flour and wheat bran, are obtained; condensate is imported for oil refinery but petrol and diesel oil are obtained,...) but only products of one kind are exported, enterprises shall have to declare such to customs offices. The refundable import tax amount shall be determined by apportionment method according to the following formula:

| | | | | |
|---|---|--|---|---|
| Refundable import tax amount (corresponding to actually product exported products) | = | Export product value ----- Total value of obtained products | x | Total import tax on the imported raw materials supplies |
|---|---|--|---|---|

- The export product value shall be the actually exported quantity of products multiplied by (x) the taxable price of exported goods (FOB).

- The total value of obtained products shall be the total value of exported products and the sale turnover of products (inclusive also of discarded materials, recoverable faulty products but exclusive of output value added tax) for domestic consumption.

6. For goods temporarily imported for re-export or temporarily exported for re-import by the mode of trading in goods temporarily imported for re export or temporarily exported for re-import and goods imported under consignment for foreign parties and then re-exported, except for the case where tax has been exempted under Point 1, Section I, Part D of this Circular, they shall be considered for refund of import tax or export tax and not be liable to import tax upon re-import or not be liable to export tax upon re-export. A dossier of request for consideration of tax refund shall consist of:

- A written request for refund of the paid export tax or import tax;
- The customs declaration of imports or export having gone through customs procedures;
- The goods trading contract signed with the seller or the buyer or the import consignment contract signed with the foreign party;
- The tax payment voucher;
- The import or export consignment contract (for goods imported or exported under consignment);
- Via-bank payment vouchers for export goods lots.

Where goods are temporarily imported for re export or goods temporarily exported for re-import, if they have been actually re-exported or re imported within the tax payment time limit specified in Section III, Part C of this Circular, the import or export tax amount corresponding to the actually re-exported or re-imported quantity of goods shall not be paid. The dossiers of request for non collection of tax shall be the same as dossiers of request for consideration of tax refund (excluding tax payment vouchers).

7. Goods which have been exported but then must be re-imported into Vietnam shall be entitled to refund of the paid export tax and non-payment of import tax.

7.1. Conditions for consideration of refund of the paid export tax and non-payment of import tax:

- Goods are actually re-imported into Vietnam within 365 days after the date of actual exportation;
- Goods have not gone through the production, processing, repair or use overseas;

- Goods re-imported into Vietnam must go through customs procedures at places where export procedures were carried out for such goods.

7.2. A dossier of request for consideration of refund of the paid export tax and non-payment of import tax shall consist of:

- A written request for refund of the paid export tax and non-payment of import tax, clearly stating the reasons for re-import into Vietnam and assuring that the goods have not gone through production, processing, repair or use overseas;

- The notice of the foreign customer or the agreement with the foreign customer on receiving back the goods, clearly stating the reasons therefore, the quantity and kinds of the returned goods;

- The customs declaration of exported goods having gone through customs procedures and the set of documents of the exported goods lot;

- The export tax payment voucher;

- The declaration of re-imported goods, clearly indicating which export document set under which such goods were exported and the customs office's specific goods inspection result certifying that the goods re-imported into Vietnam are those previously exported by the enterprise. Where the previously exported goods were exempt from actual inspection on the basis of the conclusions of a competent State agency or an expertising organization as provided for by the Customs Law, the customs office shall compare the result of inspection of actually re-imported goods with the export goods lot dossier in order to certify whether or not the re-imported goods are exactly the exported ones;

- Tax payment vouchers for exported or imported goods (except for case of non-payment);

- The contract on export or import consignment (for goods exported or imported under consignment).

7.3. If exported goods which are forced to be re-imported into Vietnam are still in the export tax payment time limit specified in Section III, Part C of this Circular, export tax shall not be paid for the actually re-imported quantity of goods. The dossiers of request for consideration of non-collection of export tax or import tax shall be the same as those prescribed for tax refund consideration.

7.4. Where exported goods which are those processed by Vietnamese enterprises for foreign parties and have been exempt from import tax on raw materials and supplies, must be re-imported into Vietnam for repair, re-processing before they are re-exported to foreign parties, customs offices which manage and settle the original processing contracts must continue the monitoring and management until the re-processed goods are fully exported and the declarations of imported goods for re-processing are liquidated. If the re-processed goods are not exported, tax thereon shall be handled as follows:

- If they are domestically consumed, the tax payment declaration must be made as for processed goods exported or imported on the spot;

- If they are allowed for destruction in Vietnam and the destruction has already been carried out under customs supervision, they shall be exempt from tax like discarded processing materials and defective products which are destroyed.

7.5. Where exported goods made of imported raw materials and supplies or goods temporarily imported for re-export (which are entitled to tax refund upon export) must be re-imported into Vietnam, enterprises must either retrospectively pay the first-time import tax amounts already refunded or shall not be considered for refund of the tax (if not yet refunded) corresponding to the quantity of goods re-imported into Vietnam. When the goods re-imported into Vietnam are actually exported, enterprises must declare and pay export tax thereon (if they are liable to export tax) and shall be considered for import tax refund under the provisions of Points 4, 5 and 6, Section I, Part E of this Circular.

8. Imported goods which must be re-exported to foreign owners or re-exported to a third country shall be considered for refund of the paid import tax corresponding to the actually re-exported quantity of goods and for non-payment of export tax:

8.1. Conditions for consideration for refund of the paid import tax and non-payment of export tax:

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

8.2. The dossiers of request for consideration of refund of the paid import tax and non-payment of export tax shall each consist of:

- A written request for consideration of import tax refund and non-payment of export tax, clearly stating the reasons for re-export of goods to the foreign owner (clearly stating the quantity, kind, value of the re-exported goods);
- The customs declaration of imported goods having gone through customs procedures and inspected by the customs office, clearly stating the quantity, quality and kind of the imported goods;
- The tax payment voucher;
- The written agreement on the return of goods to the foreign party, clearly stating the reasons therefore, the quantity, quality, kind and origin of the goods lot;
- The customs declaration of exported goods, clearly stating the customs office's goods inspection results and certification of the actual exportation, which indicates the quantity, quality and kind of the exported goods and the import goods dossier set under which the goods were exported, and the enclosed set of documents of the exported goods lot. Where the imported goods were exempt from actual goods inspection on the basis of the conclusions of a competent State agency or an expertising organization under the Customs Law, the customs offices shall compare the results of inspection of actually exported goods with the dossiers of imported goods lots in order to certify whether or not the re-exported goods are exactly the imported ones.
- The invoice cum ex-warehousing bill;
- The import contract and export/import consignment contract (if any);

- The voucher on payment for the re-exported goods lot (excluding the case where payment has not yet been made);

Where imported goods are incompatible with the contracts, there must be notices on the goods expertising results of agencies or organizations having the function and competence to expertise exported and imported goods. For the quantities of goods sent by foreign parties for replacement of the re-exported goods quantities, enterprises must declare and pay import tax thereon according to regulations.

8.3. Where to be- re-exported goods are still within the import tax payment time limit specified in Section III, Part C of this Circular, import tax must not be paid for the re-exported quantity of goods. The dossiers of request for consideration of non collection of import tax shall be the same as those for consideration of tax refund (excluding tax payment vouchers).

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

9.1. For brand-new imports:

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

9.2. For used imports:

| The duration of being used and kept in Vietnam | Import tax to be refunded |
|--|-----------------------------------|
| For 6 months or less | 60% of the paid import tax amount |
| Between over 6 months and 1 year | 50% of the paid import tax amount |
| Between over 1 year and 2 years | 40% of the paid import tax amount |
| Between over 2 years and 3 years | 35% of the paid import tax amount |
| Between over 3 years and -5 years T | 30% of the paid import tax amount |
| Over 5 years | No refund |

9.3. Dossiers of request for consideration of import tax refund shall each consist of:

- A written request for consideration of import tax refund;
- The contract (or written agreement) on import, borrowing of machinery, equipment, instruments or means of transport;
- The customs declaration of imported or exported goods, with the liquidation and certification by the customs office of the quantity and kind of the actually imported or actually re-exported goods and the set of documents of the exported or imported goods lot;
- The tax payment voucher;
- The contract on export or import consignment (for cases of export or import consignment).

Where organizations or individuals importing machinery, equipment, instruments or means of transport cannot re-export them within the re-export time limit and are permitted by the Trade Ministry (or a competent State agency) for their transfer to other subjects in Vietnam for continued management and use, such transfer shall not be considered export while import tax shall not be refunded and the transferees or buyers shall not be required to pay import tax. After they are actually re-exported, the original importers shall be refunded import tax according to the provisions of this Point. When requesting consideration of tax refund, apart from the dossiers stated above, requesting organizations or individuals must add the following documents:

- The official letter of the Trade Ministry (or a competent State agency) permitting the transfer and reception of the temporarily imported machinery, equipment, instruments or means of transport (if required under State regulations);
- The contract on sale and purchase or record on hand-over and reception of machinery, equipment, instruments or means of transport between the two parties;
- The invoices-cum-ex-warehousing bill or sale invoice of the importing organization or individual, which is handed over to the buyer or the transferee;

- Photocopies of the dossiers of the goods temporarily imported on the spot, certified as true copies by the enterprise.

10. For imported or exported goods sent by organizations or individuals overseas to organizations or individuals in Vietnam through international postal services or mail services and vice versa, post enterprises which have paid tax thereon shall be refunded the paid tax amounts in cases where such goods cannot be delivered to recipients and must be re-exported, re-imported, confiscated or destroyed under the provisions of Joint Circular No. 01/2004/TTLT-BBCVT-BTC of May 25, 2004, of the Post and Telematics Ministry and the Finance Ministry guiding the responsibilities and coordinative relationships in customs inspection and supervision over mails and postal matters and parcels imported or exported through postal services or mail delivery services.

A dossier of request for consideration of tax refund shall consist of:

- A written request for consideration of tax refund;
- Dossiers and vouchers related to imported or exported goods;
- The customs declarations of imported or exported goods, with the liquidation and certification by the customs office of the quantity, kind and value of the actually imported, exported, confiscated or destroyed goods;
- The tax payment voucher.

11. For mistakes made in tax declaration, calculation or payment (by taxpayers or customs offices), the overpaid tax amount shall be refunded if such mistakes were made within 365 days preceding the date of detection of mistakes. The date of detection of a mistake is the date of signing of a written certification thereof between the taxpayer and the customs office. A dossier of request for tax refund shall consist of:

- A written request for refund of the overpaid import or export tax amount;
- The customs declaration of imported or exported goods having gone through customs clearance (enclosed with related import or export dossiers);
- The tax payment voucher.

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

A dossier of request for tax refund shall consist of:

- A written request for refund of the paid import tax, export tax and other taxes;
- The customs declaration of imported or exported goods, already liquidated by the customs office;
- Vouchers of payment of import tax or export tax and other taxes (if any);

- Invoices under the goods trading contract;
- The violation-handling record;
- The competent State agency's decision on confiscation of goods in violation.

13. For imported or exported goods for which tax has been paid but which are then entitled to tax exemption under decisions of competent State agencies, such tax shall be refunded. A dossier of request for tax refund shall consist of:

- A written request for refund of the paid import tax or export tax;
- The customs declaration of imported or exported goods, already liquidated by the customs office;
- The import tax or export tax payment voucher;
- Invoices under the goods trading contract;
- The violation-handling report;
- The competent State agency's tax exemption decision.

14. For imported or exported goods which are currently under customs supervision and management and for which the customs declarations have been made and which are detected to be in violation by customs offices when conducting inspection for customs clearance and, as a result, which must be destroyed and have been destroyed, decisions on non-collection of import tax or export tax thereon (if any) shall be issued. The handling of violations regarding acts of exporting or importing goods in violation of regulations and the forced destruction thereof shall comply with current legal provisions. Customs offices where customs declarations of imported or exported goods are made must preserve dossiers on the destroyed goods and coordinate with relevant functional agencies in supervising the destruction strictly according to current legal provisions.

II. Some other provisions on procedural dossiers of request for consideration of tax refund:

1. Via-bank payment vouchers in the tax refund (or non-collection) consideration dossiers shall comply with the provisions in Appendix 2 to this Circular. Particularly for re-exported petroleum, the payment currency must be USD (US dollar).

2. Where enterprises have exported goods but then must re-import them into Vietnam (at Point 7, Section I, Part E of this Circular) or have imported goods from a foreign country but then must re-export them to such country or a third country (at Point 8, Section I, Part E of this Circular), and carry out customs procedures at different places (not at the same border gate) which are, however, attached to a particular local Customs Department, they shall be considered for refund of export tax (if any) and non-payment of import tax for cases where exported goods must be re-imported into Vietnam or be considered for refund of the paid import tax and non-payment of export tax for cases where imported goods must be re-exported.

III. The order of tax refund settlement is as follows:

- For cases stated at Points 1, 2, 3, 11, 12 and 13, Section I, Part E of this Circular, the export! import goods inspection sections shall give certifications and the tax calculation sections of customs offices shall re-examine and carry out procedures for tax refund. Local Customs Departments shall consider and issue decisions on tax refund.

To be-refunded import tax amounts shall be handled as follows:

- + To be credited in tax amounts, fines and other payable amounts still owed by taxpayers to the budget;

- + To be credited in tax amounts and other payable amounts for subsequent lots of exported or imported goods if so requested by taxpayers;

- + To be refunded from the state budget, whereby local Customs Departments shall propose the Ministry of Finance (the State Budget Department) to directly refund the tax amounts to eligible taxpayers under local Customs Departments' tax refund decisions.

- For cases stated at Points 4, 5 (5.2.1 and 5.2.3), 6 and 9, Section I, Part E of this Circular, customs offices may deposit collected tax amounts into separate treasury accounts of local Customs Departments. Upon receiving eligible taxpayers' written requests for tax refund, local Customs Departments shall base themselves on the prescribed dossiers to examine, consider and sign decisions on tax refund (or non-collection) and effect the tax refund for the requesting taxpayers from the above-said deposit treasury accounts. For cases stated at Points 5.2.2, 5.2.4, 5.2.5 and 5.2.6, local Customs Departments shall base themselves on the prescribed dossiers to examine, consider and sign decisions on tax refund (or non-collection) and carry out procedures for refund of import tax money according to current regulations of the Ministry of Finance.

- For cases stated at Points 7 and 8, Section I, Part E of this Circular, local Customs Departments shall base themselves on the prescribed dossiers to examine, consider and sign decisions on tax refund (or non-collection) for the requesting taxpayers.

Local Customs Departments shall monitor and handle to-be-refunded tax amounts in the following order: Crediting them into tax amounts, fines and other payable amounts still owed by taxpayers to the budget; crediting into tax amounts and other payable amounts for subsequent lots of exported or imported goods if so requested by taxpayers; and refunding them from the state budget, whereby local Customs Departments shall propose the Ministry of Finance (the State Budget Department) to directly refund the tax amounts to the eligible taxpayers under local Customs Departments' tax refund decisions.

- The tax refund procedures, dossiers and process applicable to the case stated at Point 10, Section I, Part E of this Circular shall be as guided in the Finance Ministry's Circulars No. 68/2001/TTBTC of August 24,2001, and No. 91/2002/TT-BTC of October 11 , 2002, guiding the refund of collected amounts already remitted into the state budget.

When dealing with tax refund under tax refund decisions, local Customs Departments must liquidate the to be- refunded tax amounts on each export, customs declarations of imported or exported

goods and clearly write: "Tax refund of... *dong*, under Decision No..., day... month... year... of ..."

Where the to be-refunded tax amounts shall be credited into eligible taxpayers' payable tax amounts of the subsequent period, the customs declarations of imported or exported goods must also be clearly written with " Credited tax amount of... *dong*, under tax refund Decision No..., day... month... year... of " At the same time, the to be credited tax amounts and the serial number and date of the customs declaration of imported or exported goods eligible for tax credit shall be written in the originals of the customs offices' tax refund decisions for monitoring.

IV. Time limits for dossier submission and for tax refund consideration

1. Time limit for dossier submission:

Within 60 days as from the date of registration of customs declarations of actually imported or exported goods, the subjects eligible for import tax or export tax refund must complete the dossiers as prescribed and send them to competent state agencies for consideration and settlement of tax refund according to regulations. Beyond this time limit, if they fail to complete the dossiers as prescribed and send them to competent agencies, they shall be sanctioned for administrative violations in the customs domain.

Where the payment time limit specified in the export contract is longer than 60 days as from the date of actual export of goods, the enterprise concerned must make a written commitment to produce payment vouchers within 15 days after the expiration of such payment time limit.

2. Time limit for tax refund consideration:

2.1. Within 15 days after receiving the complete dossiers of request for tax refund as prescribed, state agencies competent to consider tax refund shall have to issue tax refund decisions for eligible subjects. Where a dossier of request for tax refund is incomplete or fails to comply with regulations, within 5 working days after receiving such dossier, the state agency competent to consider tax refund must issue a written request for supplementation of the dossier.

2.2. Beyond the time limit specified at Point 2.1 above, if the late issue of a tax refund decision is due to the fault of the state agency competent to consider tax refund, apart from the refunded tax amount, an interest must also be paid for the late refund, which shall be calculated from the date of late issue of the tax refund decision to the date of issue of the tax refund decision at the lending rate applied by commercial bank at the time a decision should have been issued.

PART G

COLLECTION OF TAX ARREARS

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

1. For cases where tax was exempt or considered for exemption under the provisions of this Circular, if goods are used for purposes other than the purposes eligible for tax exemption or tax exemption consideration, tax amounts must be paid in full, except for cases where such goods are transferred to subjects eligible for tax exemption or tax exemption consideration under the provisions of this

Circular.

2. Where taxpayers or customs offices make mistakes in tax declaration, calculation or payment, the tax deficits owed within 365 days preceding the date of detection of such mistakes shall be collected. The date of detection of such a mistake is the date of signing of a written certification thereof between the taxpayer and the customs office.

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

II. The bases for calculation of import tax or export tax shall be the taxable price, tax rate and the exchange rate applied at the time of change of the purpose eligible for tax exemption or tax exemption consideration for the case stated at Point 1, Section I of this Part (particularly for tax rates, if the originally imported goods are brand-new, the tax rate applied at the time of change of the purpose of brand-new goods shall apply; if the originally imported goods are used ones, the tax rate applied at the time of change of the purpose of used goods shall apply); at the time of registration of the previous customs declarations for the cases stated at Points 2 and 3, Section I of this Part.

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

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

In some special cases, the time limit for payment of tax amounts and fines (if any) needs to be longer than 10 days, taxpayers must register their plans for payment of tax amounts and fines (if any) and obtain the guarantee for such tax amounts and fines (if any) by a credit institution or another organization under the provisions of the Law on Credit Institutions. For late payment of tax amounts and fines (if any), taxpayers must pay also an amount equal to 0.1 % of the lately paid amount for each date of late payment. The General Department of Customs shall consider and handle these cases.

Past the above-prescribed time limit, if taxpayers still fail to pay tax, they shall be sanctioned for tax related violations according to the current regulations.

PART H

MANAGEMENT OF TAX COLLECTION AND PAYMENT

I. Tax payment:

Taxpayers shall pay import tax or export tax directly into state treasuries. Where a state treasury does not collect tax money in cash at the place where customs procedures are carried out, the customs office that carries out import or export procedures shall directly collect tax money and pay it fully into the state treasury according to the Finance Ministry's documents guiding the implementation of the Budget Law.

II. Rights and obligations of taxpayers:

1. Taxpayers shall have the following rights:

1.1. To request customs offices to explain and give guidance on the law on import tax and export tax;

1.2. To request customs offices to keep confidential information declared and supplied to them according to the provisions of law;

1.3. To request customs offices and other concerned agencies to collect or exempt import and export taxes, consider import and export tax exemption, reduction or refund, and refrain from collecting import and export taxes in accordance with the provisions of law;

1.4. To request customs offices to notify in writing grounds, methods and bases for determining quantities, tax rates and dutiable values, which have been used for tax calculation.

1.5. To request customs offices and other concerned agencies to notify the results of examination of import tax or export tax declaration, calculation or payment or give opinions on such results; request customs offices and other concerned agencies to explain tax examination and calculation contents which are different from the tax declaration, calculation or payment already made;

1.6. To prove the accuracy and truthfulness of the declared tax calculation contents when custom offices have any suspicion and so request;

1.7. To request customs offices and other concerned agencies to pay compensation for damage caused by the late issue of tax refund decisions or the issue of wrong import tax or export tax decisions according to the provisions of law;

1.8. To request customs clearance for goods in cases where taxpayers have insufficient bases for the accurate determination of the payable tax amount, provided that they have paid a security for the payment of tax liabilities for such goods;

1.9. To lodge complaints about or take legal action against acts of violation of the import tax and

export tax law committed by customs officers, customs offices or other concerned agencies in accordance with the provisions of law;

1.10. To denounce acts of violation of the import tax and export tax law committed by customs officers, customs offices or other concerned agencies.

2. Taxpayers shall have the following obligations:

2.1. To declare by themselves honestly, fully and clearly tax bases and factors serving as a basis for determining tax bases; grounds for exemption from, exemption consideration, reduction, refund or noncollection of import or export tax; calculate by themselves payable tax amounts, tax amounts to be exempted, considered for exemption, reduced, refunded or not to be collected in accordance with the provisions of law and be answerable before law for the contents already declared or calculated;

2.2. To pay by themselves tax money and fines fully, on time and into proper accounts according to the provisions of law on import tax and export tax;

2.3. To supply information and documents used as a basis for determining tax bases or the method of calculating payable tax amounts, tax amounts to be exempted, considered for exemption, reduced, refunded or not to be collected at the request of customs offices in an honest and accurate manner;

2.4. To explain to customs offices and other concerned agencies about tax bases or the method of calculating payable tax amounts, tax amounts to be exempted, considered for exemption, reduced, refunded or not to be collected at the request of these agencies;

2.5. To abide by customs offices' import tax- or export tax-related examination decisions; coordinate with customs offices in verifying the truthfulness, accuracy and completeness of the contents already declared, calculated and paid;

2.6. To keep accounting records, practice cost accounting and make accounting reports; preserve customs dossiers, relevant invoices and documents; supply these documents at the request of customs offices in accordance with the provisions of law;

2.7. To abide by import tax- or export tax handling decisions of customs offices.

III. Responsibilities and powers of customs offices:

1. To meet legitimate requests of taxpayers mentioned at Point 1, Section II, Part H of this Circular;

2. To supply and guide taxpayers to fill out forms and declarations and on tax bases; supply account numbers and budget index according to the provisions of the Budget Law to taxpayers for making tax declaration, calculation and payment according to regulations.

3. To check the tax declaration, calculation and payment by taxpayers in accordance with the provisions of law. Where having any doubt but lacking grounds for making a conclusion that there is a fraud in tax declaration, calculation or payment, to conduct consultation by directly talking with and creating conditions for taxpayers to give explanations and supply relevant documents and evidence to make clear their declaration, calculation or payment of tax and other due amounts according to regulations.

4. To notify in writing taxpayers of the grounds and methods used by customs offices for re-determining tax bases if it is so requested in writing by taxpayers.

5. To collect and update information and data relating to taxpayers and tax bases in a full, timely and accurate manner under a uniform system, keep them at customs offices' data centers and supply them to concerned units for exploitation and use.

6. To request taxpayers to supply fully and in time accounting dossiers, documents, vouchers and books for checking of the tax declaration, calculation and payment when having grounds to suspect tax bases, methods of tax calculation or tax amounts to be exempted, considered for exemption, reduced, refunded or not to be collected in accordance with the provisions of law.

7. To collect import tax and export tax arrears in the cases mentioned in Section I, Part G of this Circular.

8. To fix import tax or export tax in the following cases:

8.1. Taxpayers cannot calculate by themselves payable tax amounts;

8.2. Taxpayers have based themselves on unlawful documents to make tax declaration and calculation; fail to declare or incompletely and inaccurately declare tax bases in accordance with the provisions of law;

8.3. Taxpayers refuse or fail to supply within the prescribed time limit relevant documents to customs offices for accurately determining payable tax amounts;

9. To apply coercive measures to secure full collection of tax money and fines; handle tax related violations and settle tax-related complaints under the provisions of Part K of this Circular.

PART K

COMPLAINTS AND HANDLING OF VIOLATIONS

I. Complaints and settlement of complaints:

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

II. Handling of violations:

1. Handling of tax-related violations committed by taxpayers

Taxpayers that commit violations related to import tax or export tax shall be handled under the provisions of the Import Tax and Export Tax Law and the Government's Decree No.

149/2005/NDCP of December 8, 2005, detailing the implementation of the Import Tax and Export

Tax Law; the Government's Decree No.1 00/2004/ND-CP of February 25, 2004, providing for the sanctioning of administrative violations in the tax domain, and its guiding documents.

Specifically:

1.1. For late payment of tax or fine money after the last day of the prescribed time limit or the last day of the time limit set in tax-related handling decisions, apart from paying tax or fine money in full, a fine equal to 0.1% (one thousandth) of the lately paid amount must be paid for each day of late payment; past 90 days, payment shall be coercive under the provisions of Point 1.4 of this Section. Customs offices shall have to issue written notices to taxpayers at least 3 days' before coercive measures are taken.

For lots of imported or exported goods for which import or export goods declarations are registered with customs offices before January 1, 2006, and tax and/or fine money is still owed, the provisions of this Point shall also apply thereto.

1.2. For failure to make tax declaration or payment according to regulations shall, depending on the nature and severity of violations, be handled as a tax-related administrative violation under the provisions of the Government's Decree No.1 00/ 2004/ND-CP of February 25, 2004, providing for the sanctioning of administrative violations in the tax domain, and its guiding documents.

1.3. Tax false declaration or tax evasion shall, in addition to full payment of tax money according to regulations, be subject to a fine from one to five times more than the evaded tax amount, depending on the nature and seriousness of violations.

Heads of customs offices where customs declarations have been registered may handle taxpayers' violations stated at this Point.

1.4. For failure to pay tax and/or fines under tax related handling decisions, the following coercive measures shall be taken:

1.4.1. To deduct taxpayers' deposits at banks, other credit institutions or state treasuries for paying tax and/or fines. Banks, other credit institutions or state treasuries shall have to deduct money from taxpayers' deposit accounts for paying tax and/or fines into the state budget under tax-related handling decisions of customs offices or competent state agencies.

1.4.2. Customs offices where customs declarations have been registered may temporarily seize goods or distraint property under the provisions of law to secure the full payment of tax and/or fine money still due. Past thirty days, counting from the date of issue of goods seizure or property distraint decisions by customs offices, if taxpayers still fail to fully pay tax and/or fine money, customs offices may put up such goods or property for auction according to the provisions of law so as to fully collect such tax and/or fine money.

1.4.3. Customs offices shall not carry out import procedures for subsequent lots of goods for taxpayers till such taxpayers fully pay tax and/or fine money, except for the following cases:

- Exported goods;
- Imported goods to be exclusively used in service of security or defense which are on the list of specific quantities and kinds of imported goods to be exclusively used for security or defense purposes

already approved by the leadership of the concerned managing ministry and registered with and approved by the Ministry of Finance at the beginning of the year;

- Imported goods for processing for foreign parties under signed processing contracts (except for the case of violation of regulations on financial settlement for processed goods);

- Imported machinery, equipment and supplies of ODA projects under import contracts, bid-winning contracts or project execution contracts already approved by managing agencies;

- Imported machinery; equipment; special-use means of transport; or construction supplies which cannot be made at home and are used for creation of fixed assets of enterprises;

- Imported machinery, equipment or supplies for Group-A projects provided for in the Government's Decree No. 52/1999/ND-CP of July 8, 1999, promulgating the Regulation on Investment and Construction Management and decrees amending and supplementing Decree No. 52/1999/ND-CP; and the Government's Decree No. 16/2005/ND-CP of February 7, 2005, on management of investment projects on constructions of works;

- Imported goods in need of special preservation, such as plant seedlings, breeding animals, serums, vaccines, weapons, ammunitions, explosives, inflammables, radioactive matters, and goods imported in emergency for epidemic prevention and control.

1.5. Within 60 days, counting from the date of registration of customs declarations, if taxpayers detect by themselves errors or mistakes and take initiative in paying outstanding tax amounts into the state budget, they shall be exempt from the application of sanctioning forms.

1.6. Those who evade tax in big amounts or have been administratively sanctioned for acts of tax evasion but still commit such act shall be examined for penal liability according to the provisions of law.

2. Handling of violations committed by customs officers or other concerned individuals:

2.1. Customs officers or other concerned individuals who abuse their positions and powers to misappropriate or embezzle tax money shall have to indemnify to the State the whole misappropriated or embezzled tax amounts and, depending on the nature and seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to the provisions of law.

2.2. Customs officers who are irresponsible, deliberately act against or cover those who violate or otherwise act against the provisions of the Import Tax and Export Tax Law and the Government's Decree No. 149/2005/ND-CP of December 8, 2005, detailing the implementation of the Import Tax and Export Tax Law, shall, depending on the nature and severity of their violations, be disciplined, administratively sanctioned or examined for penal liability, and, if causing any damage, they must pay compensation therefore according to the provisions of law.

PART M

ORGANIZATION OF IMPLEMENTATION

1. This Circular takes implementation effect 15 days after its publication in "CONG BAO."

2. To annul the Finance Ministry's Circular No. 87/2004/TT-BTC of August 31, 2004, guiding the implementation of the import tax and export tax; Circular No. 118/2004/TT-BTC of December 8, 2003, guiding the implementation of the Government's Decree No. 60/2002/ND-CP of June 6, 2002, providing for the determination of taxable prices of imported goods on the principle of the Agreement implementing Article 7 of the General Agreement on Tariffs and Trade; Circular No. 40/2000/TT-BTC of May 15, 2000, guiding the implementation of the Prime Minister's Decision No. 176/1999/QĐ-TTg of August 26, 2000 on exemption from import tax for materials and raw materials; Circular No. 117/2000/TT-BTC of December 21, 2000, supplementing and amending a number of articles of the Finance Ministry's Circular No. 40/2000/TT-BTC of May 15, 2000.

3. To annul the provisions on export tax and import tax in the Finance Ministry's Circular No. 98/2002/TT-BTC of October 24, 2002, guiding the tax exemption and reduction for subjects enjoying investment preferences according to the Government's Decree No. 51/1999/ND-CP of July 8, 1999, detailing the implementation of Law No. 03/1998/QH10 on Domestic Investment Promotion (amended); Circular No. 113/2003/TT-BTC of November 27, 2003, guiding supplements to Finance Ministry's Circular No. 98/2002/TT-BTC of October 24, 2002; Circular No. 13/2000m-BTC of March 8, 2000, guiding the implementation of tax provisions applicable to forms of investment under the Law on Foreign Investment in Vietnam; Circular No. 41/2002/TT-BTC of May 3, 2002, guiding the implementation of tax policies for ODA funded programs and projects; Circular No. 26/2003/TT-BTC of April 1, 2003, guiding the time of tax calculation for imported and exported goods; Circular No. 48/2001/TT-BTC of June 25, 2001, guiding the implementation of tax provisions applicable to organizations and individuals carrying out oil and gas prospection, exploration and exploitation activities in accordance with the provisions of the Petroleum Law; Circular No. 86/2000/TT-BTC of August 16, 2000, guiding the implementation of financial and tax support policies for development of key industrial products under the provisions of the Prime Minister's Decision No. 37/2000/QĐ-TTg of March 24, 2000; Joint Circular No. 2341/2000/TTLT/BKHHCN-BTC of November 28, 2000, of the Ministry of Science and Technology and the Ministry of Finance, guiding the implementation of the Government's Decree No. 119/1999/ND-CP of September 18, 1999, on a number of policies and financial mechanisms to encourage enterprise to invest in scientific and technological activities; Joint Circular No. 25/2003/ TTL T/BKHHCN-BTC of August 25, 2004, supplementing some provisions of Joint Circular No. 2341/2000/TTL T/BKHHCN-BTC of November 28, 2000, of the Ministry of Science and Technology and the Ministry of Finance; Circular No. 123/2004/ TT-BTC of December 22, 2004, guiding the implementation of tax preferences stipulated in the Prime Minister's Decision No. 128/2000/QĐ-TTg of November 20, 2000, on a number of policies and measures to encourage investment in and development of the software industry. Other previous provisions on import tax and export tax contrary to the provisions of this Circular are hereby annulled.

4. For projects entitled to investment encouragement which have been granted investment licenses or investment preference certificates containing export tax and/or import tax preference levels higher than those specified in this Circular, they shall continue enjoy such preference levels; in case of

currently enjoying export tax and/ or import tax preference levels lower than those specified in this Circular, they shall enjoy the preference levels specified in this Circular for their remaining preference-enjoying period.

5. For declarations of exported, imported, re exported (for temporary import for re-export), re imported (for temporary export for re-import) goods which are registered with customs offices before the effective date of this Circular, the previous provisions shall still apply thereto.

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

For the Minister of Finance

Vice Minister

TRUONG CHI TRUNG

THE DUTIABLE VALUE OF IMPORTS

(Issued together with the Finance Ministry's Circular No. 113/2005/TT-BTC of December 15, 2005, guiding the implementation of import tax and export tax)

I. Determination of the dutiable value on the basis of the transaction value

The dutiable value of imported goods must be first of all determined on the basis of the transaction value. Transaction value is the total amount of money actually paid or payable by the buyer directly or indirectly to the seller for purchasing imported goods, after being adjusted with additions and/or deductions as guided in Section VII of this Appendix.

1. The transaction value shall be applied if all of the following conditions are met:

1.1. There must be no restrictions on the disposal and use of the goods after the importation, except for the following restrictions which:

1.1.1. Are imposed by Vietnamese law, such as provisions on compulsory sticking of Vietnamese - language labels on imported goods, goods subject to conditional import, or goods subject to a certain form of inspection before customs clearance, etc.

1.1.2. Are limited to the geographical areas where the goods can be sold; or

1.1.3. Do not affect the value of the goods. These restrictions constitute one or more factors directly or indirectly related to imported goods but not increasing or reducing the price actually paid for such goods.

Example: The seller requests the buyer not to sell or display imported goods before marketing such goods.

1.2. The goods price or goods sale does not depend on conditions or payments for which a value of goods being valued cannot be determined.

Some factors affecting the value of goods which should be taken into consideration when determining the transaction value include:

- The seller establishes the price of the imported goods on the condition that the buyer will also buy other goods in certain quantities.

- The price of the imported goods depends on the price at which the importer will sell other goods to the exporter.

- The price of the imported goods is established on the basis of a form of payment extraneous to the imported goods, for example: the seller supplies imported goods which are semi-finished products to the buyer on the condition that the seller will receive back a certain quantity of finished products made of such imported semi-finished goods.

Where the goods sale and purchase or goods price depends on one or several conditions, but the

buyer has objective and valid documents to determine the effect in monetary terms of such dependence, this condition is still considered being met. When determining the dutiable value, the money amount reduced due to the effect of such dependence must be added to the transaction value.

1.3. After re-selling, transferring or using imported goods, the buyer shall not have to additionally pay any part of the proceeds from the disposal of imported goods, excluding the addition to be made under the provisions of Point 2.6, Section VII of this Appendix.

1.4. The buyer and the seller have no special relationship or such relationship, if any, will not affect the transaction value. The consideration of the influence of such special relationship on the transaction value is guided at Point 3 below.

2. The transaction value consists of the following amounts:

2.1. The buying price shown on commercial invoices

Where the buying price shown on commercial invoices includes discounts for the imported goods lot, such discounts shall be deducted for determining the dutiable value on the condition that they are expressed in writing before the goods are loaded onto a means of transport, and lawful and valid data and vouchers are available for separating them from the invoiced price and submitted together with the customs declarations.

Principal discounts include:

- Discount based on the commercial level of goods sale and purchase transactions;
- Discount based on the quantity of bought or sold goods;
- Discount based on the form and time of payment;
- Other discounts conforming to international commercial customs and practices.

2.2. Adjustments guided in Section VII of this Appendix.

2.3. Amounts payable by the buyer but not yet included in the buying price shown on commercial invoices, including:

- Prepaid amount, advanced amount, deposit for the production, purchase, sale, transport and insurance of goods.
- Amounts indirectly paid to the seller, such as: amount paid by the buyer to a third party at the request of the seller; amount paid by way of debt clearing.

3. Determination of the influence of the special relationship on the transaction value:

3.1. Where the buyer and the seller have a special relationship which, however, does not affect the transaction value, the customs declarant shall have to declare this fact and determine the dutiable value on the basis of the transaction value.

3.2. Based on available information, if the customs office suspects that the special relationship affects the transaction value, it shall immediately notify the suspicion grounds in writing to the customs declarant. In this case, the customs office shall create conditions for the customs declarant to give

explanations and additional relevant information to clarify that the special relationship between the buyer and the seller does not affect the transaction value of the imported goods, by proving that:

3.2.1. Such transaction value approximates to one of the following values of the imported goods lots exported to Vietnam on the same day or within 60 days (calendar days) before or after the date of exportation of the goods lot being valued:

- The dutiable value of identical or similar imported goods sold to other importers having no special relationship with the exporter (seller), determined on the basis of the transaction value;
- The dutiable value of identical or similar imported goods determined on the basis of the deductible value provided for in Section IV of this Appendix;
- The dutiable value of identical or similar imported goods determined on the basis of the computed value provided for in Section V of this Appendix.

Past 30 working days after the date of receipt of the notice of the customs office, if the customs declarant fails to give any explanation and additional relevant information, the customs office shall determine the dutiable value of the imported goods lot on the principles and by the method of dutiable value determination provided for in Sections from I to VI of this Appendix.

3.2.2. The aforesaid dutiable values shall be used for the comparison purpose only and the dutiable values of identical or similar imported goods must be adjusted to the same conditions as the imported goods being proved:

- Adjustment to the same sale and purchase conditions:

The adjustment of the dutiable value of identical or similar imported goods to the same sale and purchase conditions as the goods lots being proved shall comply with the guidance at Point 2.2, Section III of this Appendix.

- Adjustment by making additions or deductions under the guidance in Section VII of this Appendix.

4. For imported information equipment bearing data or instructions (hereinafter collectively referred to as software or information), their dutiable value shall include the value of information equipment only, excluding the value of software or information therein (for example, software programs, instructions describing digitized information programs), provided that these two values are separately shown in invoices.

The aforesaid information equipment may be floppy diskettes, CDs, CPUs or any information storing objects other than integrated circuit boards, semi-conducting circuits and similar devices or parts attached thereto.

The guidance at this Point shall not apply to the import of products bearing sounds, feature movie or video images.

II. Determination of the dutiable value on the basis of the transaction value of identical imported goods

If the dutiable value of imported goods cannot be determined on the basis of the transaction value as guided in Section I of this Appendix, it shall be determined on the basis of the transaction value of identical imported goods.

The method of determining the dutiable value on the basis of the transaction value of identical imported goods shall be implemented under the guidance in Section III below whereby the phrase "similar imported goods" are replaced by the phrase "identical imported goods."

III. Determination of the dutiable value on the basis of the transaction value of similar imported goods:

1. Dutiable value determination:

If the dutiable value of imported goods cannot be determined on the basis of the methods guided in Section I and Section II of this Appendix, it shall be determined on the basis of the transaction value of similar imported goods on the condition that the dutiable value of such similar imported goods determined on the basis of the transaction value has been approved by the customs office, and such similar imported goods have the same sale and purchase conditions and condition of time of exportation as imported goods being valued under the guidance at Point 2 below:

Where similar imported goods lot having the same sale and purchase conditions as imported goods lot being valued cannot be found, a similar imported goods lot with different sale and purchase conditions may be chosen provided that it must be adjusted to the same sale and purchase conditions.

2. Conditions for choosing similar imported goods lots: A similar imported goods lot shall be chosen if meeting the following conditions:

2.1. Condition of time of exportation

A similar imported goods lot must be the one exported to Vietnam on the same day of exportation of the imported goods being valued or within 60 calendar days before or after that date.

2.2. Sale and purchase conditions:

2.2.1. Condition of commercial level and quantity

2.2.1.1. The similar imported goods lot must have the same condition of commercial level and quantity as the imported goods lot being valued.

2.2.1.2. If imported goods lot stated at Point 2.2.1.1 cannot be found, an imported goods lot at the same commercial level but in a different quantity shall be chosen, then the transaction value of similar imported goods shall be adjusted to the same quantity of the goods lot being valued.

2.2.1.3. If imported goods stated at Point 2.2.1.1 or Point 2.2.1.2 cannot be found, an imported goods lot at a different commercial level but in the same quantity shall be chosen, then the transaction value of such similar imported goods lot shall be adjusted to the same commercial level of the goods lot

being valued.

2.2.1.4. If imported goods lot stated at Point 2.2.1.1, Point 2.2.1.2 or Point 2.2.1.3 cannot be found, an imported goods lot at a different commercial level and in a different quantity shall be chosen, then the transaction value of such similar imported goods lot shall be adjusted to the same commercial level and quantity of the goods lot being valued.

2.2.2. Condition of distance and mode of transportation and of insurance:

The similar imported goods lot has the same transport distance and mode, or has already been adjusted to the same transport distance or mode of the goods lot being valued.

If there exists a significant difference in insurance premium, the similar imported goods lot shall be adjusted to the same insurance term as the goods lot being valued.

2.3. When applying the method of determining the dutiable value on the basis of the transaction value of similar imported goods, if similar imported goods manufactured by the same_ manufacturer or authorized manufacturer cannot be found, goods manufactured by another manufacturer and of the same origin may be taken into consideration.

2.4. When determining the dutiable value on the basis of this method, if two or more transaction values of similar imported goods are determined after the similar imported goods lot is adjusted to the same commercial condition as the goods lot being valued, the dutiable value shall be the lowest transaction value.

While carrying out customs procedures, if information is not sufficient for choosing imported goods identical or similar to the imported goods being valued, the dutiable value of the imported goods shall not be determined under the guidance in Section II or Section III of this Appendix but must be determined by the next method.

3. Vouchers and documents to be submitted:

3.1. When applying the method of determining the dutiable value on the basis of the transaction value of similar imported goods, the customs declarants must submit to the customs offices the certified true copies of the following documents:

- The customs declaration and the declaration of the value of similar imported goods;
- The transport contract of similar imported goods (if the cost of transport is adjusted);
- The insurance policy of similar imported goods (if insurance premium is adjusted);
- The commercial contract; the commercial invoice of similar imported goods, exported goods price quotations of the foreign manufacturer or seller (if the quantity or commercial level is adjusted);
- Other lawful and valid dossiers and vouchers necessary for and related to the dutiable value

determination (if necessary).

3.2. Customs offices, when applying the method of determining the dutiable value on the basis of the transaction value of similar imported goods, shall determine the dutiable value on the basis of the information available at the customs offices and documents and vouchers supplied by customs declarants.

IV. Determination of the dutiable value on the basis of the deductible value:

1. Dutiable value determination:

If the dutiable value of the imported goods cannot be determined by the methods guided in Section I to Section III of this Appendix, it shall be determined by the method of deductible value on the basis of the unit price at which imported goods, identical imported goods or similar imported goods are sold on the domestic market of Vietnam, less reasonable expenses and profit earned from the sale of the imported goods.

This method shall not apply to domestic buyers who provide assists mentioned at Point 2.4.1, Section VII of this Appendix, which are related to the goods chosen for the determination of the unit selling price.

2. Conditions for choosing the unit selling price on the Vietnamese market:

2.1. The unit selling price on the Vietnamese market must be that of the goods being valued, identical imported goods or similar imported goods at which the goods are sold in the condition as they were imported.

2.2. The unit selling price to be chosen is the unit price at which the goods are sold in the greatest aggregate quantity sufficient for serving as a basis for the establishment of the unit price provided that such goods are sold immediately after they are imported but within 90 calendar days after the date of importation of the goods being valued and the domestic buyer and the seller have no special relationship.

For example: Goods lot A consists of various goods items of which goods item B must have its dutiable value determined by the method of deductible value. Goods lot A was imported on January 1, 2005. Earlier, a goods lot consisting of a goods item identical to goods item B was imported and then sold to many domestic buyers at the following prices and times of sale:

| Unit price | Quantity/number of sales | Time of sale | Aggregate quantity |
|--------------|--------------------------|-------------------|--------------------|
| VND 900/unit | 50 units | March 28, 2005 | 100 units |
| | 30 units | January 15, 2005 | |
| | 20 units | March 3, 2005 | |
| VND 800/unit | 200 units | January 20, 2005 | 450 units |
| | 250 units | February 12, 2005 | |
| | Total | | |
| | | | 550 units |

- In the example above, the unit selling price chosen for deduction is VND 800/unit, corresponding to the greatest quantity of goods sold (450 units) at a level sufficient for the establishment of the unit price. This unit price satisfies the conditions for choosing the unit selling price, namely:

- + Having the greatest aggregate quantity (450 units).
- + The time of sale within 90 days after the date of importation.

3. Principles of deduction:

The determination of deductible amounts must be based on available lawful and valid accounting data and vouchers recorded and reflected according to Vietnam's accounting regulations and standards.

Deductible amounts must be those permitted to be accounted into the cost price.

4. Amounts deductible from the unit selling price:

Amounts deductible from the unit selling price are reasonable expenses and profit earned from the sale of goods on the Vietnamese market, including:

4.1. Costs of transport and insurance and other costs associated with the transport of goods after the importation:

4.1.1. Costs of transport and insurance and other costs associated with the transport of goods incurred from the first border gate of importation to the goods storehouse of the importer or the place of goods delivery in inland Vietnam;

4.1.2. Costs of transport and insurance and other costs associated with the transport of goods incurred from the importer's storehouse to the place of goods sale, if such expenses are paid by the importer.

4.2. Taxes, charges and fees payable in Vietnam upon the importation and sale of imported goods on the domestic market of Vietnam.

4.3. Commissions or general expenses and profit associated with the sale of imported goods in Vietnam.

4.3.1. Where the importer is a sale agent for the foreign trader, the commission he/she/it is entitled to enjoy shall be deducted. If such commission is inclusive of expenses specified at Points 4.1 and 4.2

above, these expenses must not be further deducted.

4.3.2. For import by mode of definite purchase and sale, general expenses and profit shall be deducted: General expenses and profit must be taken as a whole to determine the deductible value.

General expenses include direct expenses and indirect expenses in service of the importation and sale of goods on the domestic market, for instance: marketing expense, expense for storage and preservation of goods before sale, expenses for managerial activities *in* service of the importation and sale, etc. The apportionment of general expenses to the imported goods lot must comply with Vietnam's accounting regulations and standards.

Profit earned from the sale of imported goods shall be determined on the basis of sale turnover less general expenses and expenses specified at Points 4.1 and 4.2 above.

The base for determining deductible amounts is data recorded and reflected on accounting vouchers and books of the importer in accordance with Vietnam's accounting regulations and standards. These data must be consistent with data collected from activities of buying and selling imported goods of the same class or kind in Vietnam.

5. For goods sold not in the condition as imported.

5.1. Where the unit selling price at which goods are sold in the condition as imported cannot be found, the unit selling price of the imported goods which have been further processed in the country may be used, less expenses for the processing to add value to the goods, provided that (expenses for such domestic processing and expenses mentioned at Point 4 are quantifiable. Where these processing expenses cannot be separated from the selling price, the dutiable value must not be determined by the method of deductible value but shall be determined by the next method.

5.2. Where after the processing, if the imported goods, though retaining their characteristics, nature and utility as when imported, have become components of the goods sold on the domestic market, the deductible value must not be used to determine the dutiable value of the imported goods.

5.3. After the processing, if the imported goods are changed in their characteristics, nature and utility to the extent that they cannot not be identified as they were before the processing, this method shall not be applicable.

6. Vouchers and documents to be submitted:

Customs declarants or importers must submit copies certified as true by the enterprises of the following documents together with the dossiers for customs clearance:

6.1. Sale invoice issued or permitted for use by the Finance Ministry.

6.2. Sale agency contract, if the importer is a sale agent for the exporter. This contract must specify the commission to be enjoyed by the agent and. expenses to be paid by the agent.

6.3. Written explanation on the sale turnover and expenses stated at Point 4.

6.4. Customs declaration and declaration of the value of the goods lot chosen for deduction.

6.5. Other documents necessary for the checking and determination of the dutiable value at the request of the customs office.

V. Determination of the dutiable value on the basis of the computed value:

1. If the dutiable value of imported goods cannot be determined on the basis of the methods guided in from Section I to Section IV of this Appendix, it shall be determined on the basis of the computed value. The computed value of imported goods shall consist of the following amounts:

1.1. Direct costs of production of the imported goods: Cost or value of materials, costs of other production or processing processes used for the production of the imported goods.

1.2. General expenses and profit arising from the sale of goods of the same class or kind as the imported goods being valued, which are manufactured in the country of exportation for sale to Vietnam. Profit and general expenses must be taken as a whole to determine the computed value.

General expenses include all direct or indirect expenses of the production and sale for export of the goods which have not yet been calculated under the guidance at Point 1.1 above.

1.3. Costs of transport and insurance and other costs associated with the transport of the imported goods as guided at Points 2.7 and 2.8, Section VII of this Appendix.

2. The base for determining the computed value is data recorded and reflected on accounting vouchers and books of the manufacturer in accordance with the manufacturing country's accounting regulations and standards. These data must be consistent with data collected from activities of producing and buying and selling imported goods of the same class or kind manufactured by manufacturers in the country of exportation for export to Vietnam.

3. Documents to be submitted

Customs declarants or importers must submit certified true copies of the following documents and evidences and concurrently produce their originals for comparison:

3.1. Written explanation of the manufacturer on expenses mentioned at Point 1.1 and 1.2 above, enclosed with the manufacturer's certified true copies of accounting vouchers and data consistent with this explanation;

3.2. Sale invoice of the manufacturer;

3.3. Vouchers on expenses mentioned at Point 1.3 above.

Where the aforesaid vouchers are insufficient, the dutiable value shall not be determined under the guidance in this Section but must be determined by the next method.

VI. Determination of the dutiable value by the deductive method:

1. If the dutiable value cannot be determined by the methods guided in Sections from I to V of this Appendix, it shall be determined by the deductive method, based on available objective documents and data at the time of determination of the dutiable value.

The dutiable value based on the deductive method shall be determined by applying flexibly in a sequential order the methods of dutiable value determination guided in Sections from I to V of this Appendix, immediately stopped at the method by which the dutiable value can be determined, provided that such application does not contravene the provisions of Point 2 below.

2. When determining the dutiable value by this method, customs declarants and customs offices must not use the following values:

- 2.1. The selling price on the Vietnamese market of the goods of the same kind made in Vietnam.
- 2.2. The selling price of the goods on the domestic market of the country of exportation.
- 2.3. The selling price of the goods for export to a third country.
- 2.4. Production costs of goods, except for those used in the computed value method.
- 2.5. Minimum dutiable prices.
- 2.6. Arbitrary or fictitious prices.
- 2.7. The higher transaction value of two alternative values.

3. Some cases of flexible application of the methods of dutiable value determination:

3.1. Application of the method of determining the dutiable value on the basis of the transaction value of identical imported goods or similar imported goods.

3.1.1. If identical imported goods or similar imported goods is exported to Vietnam on or within 60 calendar days before or after the date of exportation of the imported goods lot being valued cannot be found, identical imported goods or similar imported goods exported within a longer period may be chosen, provided that such period must not exceed 90 calendar days before or after the date of exportation of the imported goods lot being valued.

3.1.2. If identical imported goods or similar imported goods of the same origin cannot be found, imported goods of a different origin which still satisfy other conditions on identical or similar imported goods may be chosen.

3.2. Application of the method of determining the dutiable value on the basis of the deductible value in one of the following ways:

3.2.1. Within 90 calendar days after the date of importation, if the unit price used for deduction cannot be determined, the unit price of the chosen goods sold in the greatest quantity within 120 calendar days after the date of importation of such goods lot shall be chosen for deduction.

3.2.2. If no unit price of the imported goods or identical imported goods or similar imported goods sold to persons having no special relationship with the importer is available, the unit price of goods sold to buyers having special relationship shall be chosen, provided that such special relationship does not affect the price in the purchase-sale transaction.

3.3. The dutiable value of the imported goods shall be determined to equal the dutiable value of identical imported goods which has been determined on the basis of the deductible value or computed value.

3.4. The dutiable value of imported goods shall be determined to equal the dutiable value of similar imported goods which has been determined on the basis of the deductible value or computed value.

4. Apart from the cases stated at Point 3 above, importers may base themselves on available information and lawful and valid documents to apply other methods in a flexible way.

VII. Adjustments:

1. Adjustment principles

1.1. Additions may be made only when the following conditions are met:

- Additions are paid by the buyer and not yet included in the actually paid or payable amount.
- Additions are directly related to the imported goods.
- Where the imported goods lot involves additions but there are no objective data for determining the dutiable value, this value shall not be determined on the basis of the transaction value but must be determined by the next method.

1.2. Deductions may be made only when lawful and valid data and vouchers for separating them from the selling price are available at the time of dutiable value determination.

2. Additions include:

2.1. Goods commissions and brokerage charges, excluding buying commissions. Where these amounts include taxes payable in Vietnam, such tax amounts must not be added into the dutiable value of the imported goods.

2.2. Expenses for packing which are treated as being one with the imported goods, including the following amounts: cost of packing, other costs associated with the purchase, sale and transport of packing to the site of goods packing and preservation.

Containers, tanks, racks of various kinds used as a multiple-use means of containing for goods transport shall not be considered packing which are treated as being one with goods. Therefore, they shall not constitute added expenses for packing which are treated as being one with goods.

2.3. Packing expenses, including the following amounts:

2.3.1. Expenses for packing materials, including cost of .packing materials and other costs associated with the purchase, sale and transport of packing materials to the site of packing.

2.3.2. Expenses for packing labor, including labor cost and expenses associated with the hire of labor for packing goods being valued.

Where expenses for workers' accommodation, meals and travel during the packing period are paid by the buyer, they shall also be expenses for packing labor.

2.4. The value of goods and services supplied by the buyer free or at reduced cost directly or indirectly to the manufacturer or the seller for the production and sale of exports to Vietnam (hereinafter called the value of assists).

2.4.1. Assists include:

2.4.1.1. Raw materials, components, parts and similar products constituting the imported goods.

2.4.1.2. Raw materials, materials and fuel consumed in the manufacture of the imported goods.

2.4.1.3. Tools, instruments, dies, molds, models and similar products used in the manufacture of the imported goods.

2.4.1.4. Engineering designs, technical drawings, art designs, development plans, working designs, model designs, plans or sketches and similar service products made in foreign countries and needed for the manufacture of the imported goods.

2.4.2. Determination of the value of assists:

- If assists being goods or services are bought from persons having no special relationship for supply to the seller, their value shall be the buying price of such goods or services.

- If assists being goods or services are produced by the importer or a person having special relationship with the importer for supply to the seller, their value shall be the production cost of such goods or services.

- If assists being goods or services are produced by a foreign-based production establishment of the buyer, but there are no documents and vouchers for separate accounting of assistance goods or services, their value shall be determined by apportioning the total production cost in a particular period

of such establishment to the quantity of such goods or services produced.

- The value of assists leased or borrowed by the buyer shall be the rental or borrowing charge.
- The value of assists being used goods shall be the residual value of such goods.

- For assists being goods which the buyer have processed before transferring to the seller for use in the manufacture of the imported goods, the value added by the processing shall be included to the value of the assists.
- For assists sold at reduced prices by the buyer to the exporter, the reduced value must be added to the dutiable value.
- Where surplus materials and raw materials and scraps are obtained from the manufacture of goods assists into the imported goods, the value of such surplus materials and raw materials and scraps shall be deducted from the value of the assists if there are data reflecting the value of such surplus materials and raw materials and scraps.

The value of assists shall also include expenses associated with their purchase, sale, transport and insurance to the place of manufacture of the imported goods.

2.4.3. Apportionment of the value of assists to the imported goods

2.4.3.1. Principle for apportionment of the value of assists

- The value of assists must be fully apportioned to the imported goods.
- Lawful and valid documents and vouchers on the apportionment must be made.
- The apportionment must comply with Vietnam's accounting regulations and standards.

2.4.3.2. Method of apportionment of the value of assists:

Customs declarants shall apportion by themselves assists to the imported goods by one of the following methods:

- Apportioning them to the quantity of the imported goods in the first import shipment.
- Apportioning then to the quantity of units of products manufactured up to the time of importation of the first shipment;
- Apportioning to the total quantity of products expected to be manufactured as agreed upon the buyer and seller (or the manufacturer);
- Apportioning on the principle of gradual decrease or increase;

Apart from the aforesaid methods, the buyer may use other methods of apportionment, which must comply with the provisions of law on the accounting regime and be documented.

2.5. Royalties and licensing fees

2.5.1. Royalties and licensing fees must be added to the price actually paid or payable to the imported

goods if the following conditions are fully met:

2.5.1.1. Royalties or licensing fees must be paid for the use of intellectual property rights directly connected with the imported goods being valued.

Payable royalties or licensing fees not directly related to the imported goods must not be added for dutiable value determination.

For example: An importer paid a royalty for using the process of producing flowered fabric to the holder of copyright over this process. Then, this importer imports equipment and machines used for producing such fabric from another exporter (other than the copyright holder). This royalty must not be added to the transaction value of the imported goods because it was paid for the use of the producing process, not for the imported equipment and machines.

2.5.1.2. Royalties and licensing fees must be paid directly or indirectly by the buyer. The payment of royalties or licensing fees must constitute a condition of sale and purchase of the imported goods. The buyer agrees to pay royalties or licensing fees as part of the dealing in order to buy the imported goods.

Customs declarants must submit to the customs offices the certified true copies of the original vouchers or documents evidencing the payment of royalties or licensing fees as well as licensing documents issued by the copyright holders or licensing right holders.

2.5.1.3. Royalties and licensing fees are not yet included in the selling price of the goods being valued.

2.5.2. Royalties and licensing fees must not be added to the dutiable value in the following cases:

2.5.2.1. Amounts payable by the buyer for the right to reproduce the imported goods or copy art works in Vietnam.

2.5.2.2. Amounts payable by the buyer for the right to distribute or resell the imported goods and such payment does not constitute a condition of sale of the imported goods.

Where the amounts payable for the right to reproduce, the right to distribute or resell the imported goods have been included in the selling price, such amounts shall not be deducted from the dutiable value of the imported goods.

2.5.2.3. Where royalties and licensing fees are partially included in the imported goods and partially based on factors not related to the imported goods while it is impossible either to distinguish between these two parts or to sort out royalties under a financial agreement between the buyer and the seller, such royalties and licensing fees must not be added to the dutiable value.

2.5.3. Bases for determining royalties and licensing fees

2.5.3.1. Bases for determining royalties and licensing fees are vouchers on the payment of royalties and licensing fees or other lawful or valid documents reflecting the obligation to pay such amounts.

2.5.3.2. Where royalties and licensing fees cannot be determined at the time of importation for the reason that they depend on the post importation sale turnover or for other reasons specified in the

goods sale and purchase contract or a separate written agreement on the payment of royalties, customs declarants must declare this fact and make a written commitment to additionally declare these expenses for the purpose of determining the full dutiable value of the goods lot and performing the tax obligation.

2.6. Sums of money payable by the importer from proceeds from the disposal or use of the imported goods, which are transferred in any form to the seller.

For example: The importer must pay an amount in a certain percentage of the sale turnover or proceeds from the lease of the goods after the importation.

Where these additions cannot be determined at the time of importation because they depend on the post-importation sale turnover or for other reasons specified in the goods sale and purchase contract or a separate written agreement, customs declarants must declare this fact and make a written commitment to additionally declare these expenses for determining the full dutiable value of the goods lot and performing their tax obligation.

2.7. Transport cost and all other costs directly related to the transport of the imported goods to the place of importation, such as expenses for goods handling charges, old-ship surcharges, hiring of containers, tanks and racks used as a multiple-use means of containing for transport of goods. The value of these adjustments is determined on the basis of transport contracts or vouchers or documents related to the transport of goods.

2.7.1. In cases where a goods lot consists of different kinds of goods but each kind of goods is not specified in the bill of lading, the customs declarant shall apportion by himself/herself these costs to each kind of goods by using the apportionment methods in the following priority order:

- Apportionment on the basis of the freight table of the goods carrier.
- Apportionment on the basis of the weight or volume of goods.
- Apportionment according to the ratio of the purchase value of each kind of goods to the total value of the goods lot.

2.7.2. Where the buying price is exclusive of the cost of transport but the buyer has no voucher or has an unlawful or invalid voucher on this cost, the method of determining the dutiable value on the basis of the transaction value shall not be applicable.

2.8. Insurance for goods transported to the place of importation

2.8.1. Where the importer does not buy insurance for the goods, insurance must not be added to the dutiable value.

2.8.2. Insurance premium for the whole goods lot containing different kinds of goods which has not yet been itemized for each kind of goods shall be apportioned according to the value of each kind of goods.

If the costs specified at Points 2.7 and 2.8 above are inclusive of value added tax payable in Vietnam, such tax must not be added to the dutiable value.

3. Deductions:

If the following amounts are already included in the transaction value and there are objective data based on lawful and valid documents and vouchers available at the time of dutiable value determination, they shall be deducted for determining the dutiable value:

3.1. Expenses for activities arising after the importation of goods, including expenses for construction, architecture, installation, maintenance or technical assistance, technical consultancy, supervision and similar expenses.

3.2. Costs of transport and insurance in inland Vietnam. Where such costs are associated with different kinds of goods, they shall be apportioned to the goods being valued on the principles prescribed at Points 2.7 and 2.8 above.

3.3. Taxes, charges and fees payable in Vietnam already included in the buying price of the imported goods. Where charges and fees associated with many different kinds of goods cannot be determined directly for each kind of goods, they shall be apportioned according to the ratio of the purchasing value of each kind of goods to the total value of the goods lot.

3.4. Payable interests related to the payment for the imported goods, provided that payable interest rates are expressed in writing and consistent with common credit interest rates applied by credit institutions in the country of exportation at the time of signing of the contract.

VIII. Determination of the dutiable value of the imported goods in some specific cases:

1. Imported goods which are used for purposes other than those for which they have been exempted from import tax or considered for import tax exemption must be declared for tax payment. In this case, the value for calculation of the import tax thereon shall be determined on the basis of the residual value of the goods, calculated on the basis of the duration of their use and stay in Vietnam, counting from the time of importation shown on the customs declaration to the time of taxation), specifically as follows:

| Duration of use and stay in Vietnam | The import tax calculation value = (%) of the declared value at the time of registration of customs declaration |
|--|---|
| For 6 months or less (rounded to 183 days) | 90% |
| For between over 6 months and 1 year (rounded to 365 days) | 80% |
| For between over 1 year and 2 years | 70% |
| For between over 2 years and 3 years | 60% |

| | |
|---------------------------------------|-----|
| For between over 3 years and 5 years | 50% |
| For between over 5 years and 7 years | 40% |
| For between over 7 years and 9 years | 30% |
| For between over 9 years and 10 years | 15% |
| Over 10 years | 0% |

2. For imported goods which are rented or borrowed goods, their dutiable value shall be the actually paid price under the contract signed with the foreign country and consistent with lawful and valid vouchers related to the rent or borrowing of the goods.

3. For imported goods which are goods brought overseas for repair, their dutiable value shall be the actually paid amount under the contract signed with the foreign country and consistent with lawful and valid vouchers related to the repair of the goods.

4. Warranty goods: Where the imported goods include warranty goods under the sale and purchase contract (including goods delivered later), their dutiable value shall be the value actually paid for the imported goods, inclusive of the value of warranty goods. The value and quantity of warranty goods, warranty conditions and duration must be specified in the contract.

5. Sale promotion goods: Where the imported goods include sale promotion goods under the goods sale and purchase contract (including goods delivered later), their dutiable value shall be determined as follows:

5.1. Where the value of sale promotion goods is specified in the sale and purchase contract but does not exceed 10% of the value of the imported goods, the dutiable value of the imported goods (including sale promotion goods) shall be the value actually paid for the whole imported goods lot.

5.2. Where the value of sale promotion goods cannot be separated from the value of the imported goods or exceeds 10% of the value of the imported goods, the dutiable value of the whole imported goods lot (including the value of the imported goods and the value of sale promotion goods) shall not be determined on the basis of the transaction value and the subsequent method must be tried.

6. For imported goods which have no sale and purchase contract, such as goods sold, purchase and exchanged by border residents; imported goods of passengers on entry, within and in excess of tax-free quotas; gifts and presents within and in excess of tax-free quotas; imported goods of postal

service or express mail service-providing enterprises, their dutiable value shall be the actually paid value declared by customs declarants.

7. Other specific cases:

7.1. Goods imported in excess of the quantities stated in sale and purchase contracts signed with foreign parties:

7.1.1. For goods imported in excess of contractual quantities which are identical or similar to those stated in the contract: Their dutiable value shall be determined on the basis of the method by which the dutiable value of the quantity of the imported goods stated in the contract was determined.

7.1.2. For goods imported in excess of contract quantities which are different from those stated in the contract, if they are permitted for import, their dutiable value shall be determined on the principle of application in a sequential order of the methods of dutiable value determination guided in Sections from" to VI of this Appendix, but not by the transaction value method.

7.2. Imported goods inconsistent with sale and purchase contracts signed with foreign parties:

7.2.1. For imported goods which are inconsistent in specifications, if permitted for import, their dutiable value shall be the value actually paid for the imported goods. Goods inconsistent in specifications are understood as actually imported goods having differences in color, size and/or design from those described in the sale and purchase contract which do not affect the actually paid price.

7.2.2. For imported goods other than those stated in the sale and purchase contract, if permitted for import, their dutiable value shall be determined on the principle of application in a sequential order of the methods of dutiable value determination guided in Sections from II to VI of this Appendix, but not by the transaction value method.

7.3. Imported goods which are damaged or lost for plausible reasons in the process of transport, loading or unloading:

7.3.1. For the quantity of goods which are not damaged or lost, their dutiable value shall be the price actually paid for the imported goods (not damaged or lost).

7.3.2. For the quantity of damaged or lost goods, their dutiable value shall be the dutiable value of the quantity of unaffected imported goods, less amounts reduced corresponding to the extent of damage or loss as evidenced by the expertise result and relevant dossiers.

7.4. For imported goods for offsetting losses stated at Point 7.3 above, their dutiable value shall be determined under the guidance from Section I to Section VI of this Appendix.

IX. Determination of the dutiable value in case of delayed determination:

1. At the time of registration of customs declarations, if taxpayers do not have sufficient information for the dutiable value determination and pay a security for the whole tax on the imported goods lots, customs offices shall accept to clear the goods lots concerned from customs procedures.

A security may take the form of guarantee, a deposit or another appropriate form.

2. Securities shall be determined as follows:

Customs offices that carry out customs procedures shall, at the written request of taxpayers, base themselves on available information and the methods of dutiable value determination guided in Sections from I to VI of this Appendix to determine the taxable value, serving as a basis for calculating securities and notify in writing taxpayers of such securities.

Within 3D days after the date of customs clearance for the goods, taxpayers must declare additional information necessary for determining the dutiable value of the imported goods lot and recalculate by themselves the payable tax according to regulations. Past this 3D-day time limit, if they fail to do so, customs offices shall fix tax amounts and notify in writing taxpayers thereof for implementation.

After taxpayers have fully paid taxes into the state budget, customs offices shall refund securities in cash or overpaid security amounts which taxpayers have paid to them.