

## Taxation

### Import duty rate adjustment

On 2 December 2002, the Ministry of Finance ("MOF") promulgated Decision 145/2002/QD-BTC amending import duty rate of some items of goods under the Group 2710 in the Preferential Import Tariff. According to this Decision, import duty rate of *other fuel oils* (sub-group 19.29) decreases from 10% to 0%.

Import duty rates of automobile, automobile's components and accessories items are also subject to the adjustment under Decision 146/2002/QD-BTC dated 04 December 2002 of the MOF. Adjusted items include those of 4011, 4012, 4013, 8702, 8703, 8704 and 8705 Groups. Import duty rates of second-hand vehicles for transportation of goods that have total weight of under 20 tons (group 8704) and other second-hand automobiles of 8702 and 8703 Groups increase by 50% higher than the current rates.

This Decision was issued a day after the issuance of Decision 175/2002/QD-TTg on strategy for development of automobile industry and is facing various complaints from automobile manufacturers and assemblers who are importing automobile accessories. However, according to the MOF, the increased import duty of accessories would be necessary to promote the domestic production and accelerate the compulsory localization rate committed by the automobile manufacturers.

### Tax reduction and exemption for foreign invested enterprises

According to Official Letter 12825TC/TCT dated 25 November 2002 of the MOF, provincial Taxation Departments are authorized to consider the reduction and exemption of corporate income tax for foreign invested capital enterprises ("FIEs"). To get tax reduction and exemption, FIEs that enjoy the corporate income tax reduction and exemption (as stated in their investment licences) must send official request to competent tax authorities, in which the figures achieved in the fiscal year by FIEs must be indicated, serving as the basis for competent tax authorities' consideration.

## Trade

### New Decree on Consulting Services

Decree 87/2002/ND-CP on provision and use of consultancy services was issued on 05 November 2002 by the Government. In spite of regulating only the fee-collecting consultancies provided by Vietnamese organizations, this Decree even is regarded as the major tool governing too many consulting aspects. The Decree covers consulting services of all sorts but legal services which are already covered by the Ordinance on Lawyers and its subordinate documents. Below are some salient points of this Decree.

The Decree requires all individual consultants (in addition to requirements of qualifications, ethics, legal capacity, etc.) must operate in a certain consulting organization. Every consulting organization must have at least two qualified consultants. This should be construed as a new trading condition which has been launched in the recent trend of superseding sub-licenses and unreasonable trading conditions.

Article 4 of the Decree confirms that the State shall grant consultancy service providers with the top incentives amongst those available to professional service sector, but it further sets down no more specific or explicit incentives.

Individuals and organizations providing consulting services are obligated to observe the professional ethics, to keep confidential all information of the service users, to ensure the independence, truth, objectiveness and scientism of consultancy performance. Thus, whoever uses consultancy services can be confident that his privacy is automatically kept in secret.

The main contents of a contract for provision of consultancy services are also listed out, but merely for orientation, not compulsion. Parties can elaborate contents of their contract with specific articles in

detail. The oriented contents may help to mitigate potential disputes due to the lack of some essential provisions in service contracts.

Organizations using consulting services by their own sources are entitled to calculate services charges in operation or production expenses. Organizations using consulting services paid by the State Budget's sources are entitled to treat the paid services charges as expenses for preparation, implementation of programs/projects, provided that they must open bidding for selection of service provider, except in special cases for protection of State secrets and for urgent works.

## **Strategy for development of automobile industry**

The year 2002 has recorded significant efforts of Vietnamese legislators in creating a more sound legal environment for the automobile industry. The first outcome is the study of the Ministry of Industry ("MOI"), which was purported to make proposals to the Government for building up the strategies and directions for the next decades.

The study focused on automobile FIEs which are regarded as muscle of this industry of Vietnam. It reports that total registered investment capital of automobile FIEs is around US\$543 million and actually invested capital reaches 60,13% of the total registered investment capital, as of June 30, 2001. The study uprightly indicates the several weak points of the automobile industry of Vietnam, for instance,

Too much automobile makers and assemblers with similar products in a quite small market;  
The lack of domestically -based providers of components and spare parts;  
The price of products manufactured and assembled in Vietnam is too high; and  
Automobile makers and assemblers are not strictly complied with the compulsory localization rate as required under Circular 215 dated February 8, 1995 of the former State Committee for Co-operation and Investment (now the Ministry of Planning and Investment) and as committed under issued investment licenses. Accordingly, the localization rate have just reached 2%-8% while the compulsory rate is 5% for the first five years and 10% by the tenth year, at the latest.

The study also pointed out some reasons for the said constraints, for instance, the weak coordination between ministries, the lack of capital of Vietnamese parties to joint ventures, inappropriate tariff measures, etc.. More importantly, the study had come up with some major solutions for the Government's consideration:

Policies on Investment Preferences: Investment in production and assembly of popular automobiles, production of components, spare parts and accessories should be highly promoted. Production and investment in popular automobiles should also enjoy certain favors with respect to compulsory localization rate. New FDI projects in production and assembly of luxurious automobiles should be re-considered, except those making trucks of over 15 tons;

Policies on Tax, Localization, Importation: Import duty levied on imported luxurious cars should be lowered and the prohibition on importation of automobiles having less than 12 seats shall be gradually lifted to keep pace with CEPT and AFTA progress. The State should consider in a combination the requirements for the WTO accession and the protection of domestic production until 2010, in the strategies of automobile tax imposition to be drafted in the coming time;

Other Supportive Policies: The State should complete other policies to support the development of automobile industry, for instance, providing credit and financial incentives to car purchase, enhancing the traffic infrastructures, etc..

The second prominent outcome is the Government's strategies for the development of automobile industry of Vietnam to 2010 and its prospect to 2020, which was promulgated on 3 December under Decision 175/2002/QG-TTg of the Prime Minister. With a quite short contents, the strategies solely set down overall directions for the development of automobile market, without any solution for the development of the industry which implicates giving the power to relevant ministries.

According to the strategies, by 2010, popular and specialized automobiles must have the localization rate of 60%; luxurious touring cars must have the localization rate of 20-25% by 2005, 40-45% by 2010, and luxurious buses must have 20% by 2005 and 35-40% by 2010.

# Land

## **Procedures for land transfer, leasing, inheritance and mortgage in Hanoi**

On 25 November 2002, People's Committee of Hanoi issued Decision 158/2002/QD-UB on procedures for land transfer, leasing, inheritance and mortgage (or guaranty), capital contribution by value of the land use right, and transfer of the ownership of houses attached to land, by economic organizations, households and individuals within the territory of Hanoi. This Decision also applies to re-leasing of land areas, mortgage of the land use right and properties attached to land of Vietnamese overseas, and individuals, organizations who are leasing land in Vietnam, in accordance with the Law on Foreign Investment in Vietnam.

However, the following cases do not fall within the scope of application of this Decision:

- Leasing of public land of communes, wards and towns;
- Land allocated by the State to domestic organizations without land use charges;
- Other cases that the Decision of land allocation does not allow any change, transfer, leasing, re-leasing, inheritance or mortgage (or guaranty) of land, or capital contribution by value of land use rights.

# Import-Export

## **Import of components, spare part for motorbike**

According to Official Letter 6064TCHQ/GSQL dated 3 December 2002, of the General Customs Office, addressing to provincial customs offices:

- Enterprises that do not register the application of localization rate and want to import sets of motorbike components, brand-new engines, must obtain permission from the Ministry of Trade;
- Decision 46/2001/QD-TTg dated 4 April 2001 of the Prime Minister does not forbid the importation of brand-new motorbike's components and spare parts, therefore enterprises that do not register the application of localization rate are permissible to import those items, in accordance with their business registration certificates and with tax regulations;
- Motorbike manufacturers and assemblers that are applying the localization rate shall be entitled to import registered accessories, and pay import duty at the rate notified by the MOF;
- Motorbike manufacturers and assemblers that did register the application of localization rate but failed in implementation, could be permissible to import subject to the prior approval of the MOF.

# Fee - Charge

## **Fees for granting of business licenses in international travel and tour guide certificate.**

According to Circular 107/2002/TT-BTC dated 2 December 2002 of the MOF, from 17 December 2002, fee for a licence in international travel and for a certificate in tour guide as stipulated in Clause 1, Article 6 and Article 10 of Decree 27/2001/ND-CP dated 5 June 2001, are VND1,200,000 and VND200,000 respectively.

## **Fees and Charges in areas of banking, securities and insurance**

The MOF issued on 12 December 2002 Circular 110/2002/TT-BTC providing the guidelines for collection, payment, management and utilization of fees and charges in the areas of banking, securities and insurance. This Circular comprises of two appendices:

- Appendix 1, regulating charges for members of transactions, use of equipment systems, transactions, management of annual posting, deposit members, and for deposit of shares;

- Appendix 2, regulating fees for granting and extension of licences for establishment and

operation of an insurance firm, non-banking credit institution, securities company, fund management company, securities investment fund or a deposit activity, and fees for granting and extension of licence for an individual trading in securities and fund management.

## **Banking**

Decision 1277/2002/QD-NHNN dated 18 November 2002 of the Governor of the State Bank of Vietnam, on adjustment of compulsory reserve ratio for foreign currency deposit of credit institutions;

Decision 1280/2002/QD-NHNN dated 19 November 2002 of the Governor of the State Bank of Vietnam, on promulgation of standard Charter of Joint Venture Banks;

Decision 1284/2002/QD-NHNN dated 21 November 2002 of the Governor of the State Bank of Vietnam, promulgating the Regulations on opening and utilization of deposit accounts at the State Banks and credit organizations;

Decision 1287/2002/QD-NHNN dated 22 November 2002 of the Governor of the State Bank of Vietnam, promulgating the Regulations on issuance of value papers by credit institutions for in-country mobilization of capital.

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