



**Vision & Associates**

ATTORNEYS . PATENT & TRADEMARK AGENTS . INVESTMENT & MANAGEMENT CONSULTANTS

# Legal news

March 2005

---

## Contents

<b>Taxation .....</b>	<b>2</b>
Tax Reforms key to global integration, more revenue .....	2
Other legal documents in this field .....	3
<b>Other Sectors .....</b>	<b>4</b>
Finance .....	4
Accounting .....	4
Banking .....	4
Trading .....	4
Import-Export .....	4
Insurance .....	4
Healthcare .....	5
Construction .....	5
Land .....	5
Transportation .....	5
Labor .....	5
Fishery .....	5
Customs .....	6
Miscellaneous .....	6
<b>Contact Details .....</b>	<b>7</b>

This **Legal news** is solely published for our clients and other interested persons. It is intended to be used for general information purpose only and should not be relied upon as legal advice or opinion.

Professional advice should be sought for any specific situation. Please direct your inquiries to our offices or persons listed at the end of this Legal news.

This **Legal news** is also available online at [www.vision-associates.com](http://www.vision-associates.com)

© Vision & Associates 2005. All rights reserved

## Taxation

### Tax Reforms key to global integration, more revenue

*By Nguyen Thi Thanh Xuan*

Some recent years have witnessed the Government's efforts in reforming its tax policy.

The adjustments in a number of legal documents governing taxation, including special consumption tax, value added tax, corporate income tax, etc. have been made to create the transparency in tax application. More works needed to be completed when the deadline for fulfil of international commitments on tax integration approaches.

In an attempt to speed up the tax integration process, on 06 December 2004, the Prime Minister issued Decision No. 201/2004/QĐ-TTg on the approval on tax reform program to 2010 ("Decision 201"). The program has been channelled towards a comprehensive tax policy with modern tax administration and equal playing field for both local and foreign invested enterprises.

To this end, the program described in Decision 201 focused on the following contents: (i) issuance of new tax laws, (ii) amendments of a number of current tax laws, and (iii) better tax administration.

#### **Issuance of new tax laws**

For the purpose of keeping up with the social and economic development, a wide range of new taxes will be regulated. Among those, anti-subsidy tax, anti-dumping tax and anti-discrimination tax shall be enacted by the end of the year of 2005 and land tax, natural resources tax, assets tax, environmental protection tax by the year 2008. The application time of new taxes, tax payers, tax rates, etc. will be carefully studied to ensure the stability in people's lives and society's manufacturing activities.

Besides, the specific purposes of using certain kind of tax are also defined such as the revenue gained from the environmental protection tax levied on goods and services which may harm the environment shall be used only for protecting environment.

#### **Amendments of a number of prevailing tax regulations**

Value Added Tax ("VAT"): goods and services that are not subject to the tax duties will be limited so that the calculation of VAT shall be consecutive between the phrase in a business circle of all products. By 2008, a single tax rate will be applied in accordance with the tax deduction method, ensuring the simplicity in tax calculation and the fairness in tax accountability.

Special Consumption Tax: tax rates in this regard will be amended to be suitable with the income and consumption regulation; the coverage of tax payers will be also expanded. The tax reduction and exemption by 2008 will be abolished to move towards the non-discrimination between the locally made and imported goods.

Corporate Income Tax ("CIT"): significant change in CIT policy was made last year, accordingly a common CIT rate of 28% is applied to both local enterprises and foreign

invested ones. However, taking into consideration the sustainable development of the economy, the CIT rate is scheduled to be reduced by the year 2008. In this circumstance, the tax exemption and reduction will be limited and the common tax preferential will be equally applied for all kinds of economic sectors to encourage the investment and fairness in competition.

**Import and Export Tax:** Import duties will be cut down to comply with international commitments of Vietnamese Government. It is recorded that around 224 tax lines will be decreased by 30% under the US-Vietnam Bilateral Trade Agreement and more than 80% of tax lines will be 0% under the Common Effective Preferential Tax (CEPT) and ASEAN Free Trade Agreement (AFTA). The export purpose and dispositions of Customs Law will be paid due attention to avoid the inconsistency in tax policy and tax payment procedures.

As for the Personal Income Tax (“PIT”), the law in this regard will be drafted and submitted to National Assembly by 2007 to replace the current Ordinance on High Personal Income Tax. New law will expand the tax payers and narrow the differences between the tax payers being Vietnamese and foreign investors. This law shall target all income earners but not be limited to high gainers as provided currently.

With such adjustment tendency set forth under the Decision 201, there will be a big change in the allocation map of tax contribution to the State budget. The revenue gained from export and import tax will be reduced considerably while the contrary trend is expected for the VAT, CIT, PIT.

Apart from the changes in taxes, State fees and charges will be also checked and adjusted for the purpose of comprehensive procedural reforms.

### **Tax administration**

The complexity in tax payment procedures and ineffectiveness of tax administration have urged the tax bodies to modernize its management, to streamline procedures and to improve its staffs’ capacity. By the year of 2006, a law on tax administration will be passed to cover the responsibilities of tax bodies and tax payers, empowering the tax bodies to coerce and investigate violation of tax regulations.

It is noted that in accordance with Decision 201, the method of tax self-declaration and payment will be applied nationwide by 2007. Of interest, in order to make further improvement in tax administration, Decision 201 expressly encourages tax and accounting consultancy services.

With a rather comprehensive reform, we look forwards to the compatibility between our tax legal framework and international rules and practices. The goal to contribute 20%-30% of GDP from tax payment as set out in the Decision 201 will be then hopefully reached.

### **Other legal documents in this field**

- Circular 18/2005/TT-BTC, dated March 08, 2005, of the Ministry of Finance, on amendment of and supplementation to a number of articles of Circular 119/2003/TT-BTC, dated December 12, 2003, guiding the implementation of

Government's Decree 149/2003/ND-CP, with detailed regulation on the implementation of the Law on special consumption tax and the Law on amendment of and supplementation to a number of articles of the Law on special consumption tax.

## **Other Sectors**

### **Finance**

- On March 09, 2005, the Government issued Decree 28/2005/ND-CP, on the organization and operation of small-scale financial institutions of Vietnam.
- Circular 19/2005/TT-BTC, dated March 11, 2005, the Ministry of Finance, guiding the publication of financial issues of the funds, which having sources from State budget and the funds, which having source from people's contribution.

### **Accounting**

- On February 15, 2005, the Ministry of Finance issued Decision 12/2005/QD-BTC, on promulgation of six Vietnam accounting standards (the fourth issuance) .

### **Banking**

- The State Bank of Vietnam issued Circular 01/2005/TT-NHNN on March 10, 2005, guiding the implementation of Government's Decree 202/2004/ND-CP, dealing with administrative violations in the field of currency and banking.

### **Trading**

- Decision 44/2005/QD-TTg, dated March 02, 2005, of the Prime Minister, on the approval of the key promotion program for commercial in 2005.

### **Import-Export**

- On March 02, 2005, the Prime Minister issued Decision 41/2005/QD-TTg Regulation on granting licence for import commodities.
- Decision 46/2005/QD-TTg, dated March 03, 2005, of the Prime Minister, on the adjustment of the list of import goods subject to quota.

### **Insurance**

- On February 24, 2005, the Government issued Decree 18/2005/ND-CP, on the establishment, organization and operation of mutual insurance organization.

**Healthcare**

- Circular 07/2005/TT-BYT, dated March 09, 2005, of the Ministry of Health, on the amendment of Point 2, Clause 8, Article 79 of Circular 01/2004/TT-BYT, dated January 06, 2004, guiding the private practice in the field of healthcare.

**Construction**

- The Ministry of Construction issued Circular 02/2005/TT-BXD on February 25, 2005, guiding the contract in construction activity.
- Decision 39/2005/QD-TTg, dated March 01, 2005, of the Prime Minister, guiding Article 139 of the Construction Law, on dealing with construction works which do not conform with regulations of the Construction Law.
- On March 04, 2005, the Ministry of Construction issued Circular 03/2005/TT-BXD, on the adjustment of estimation of infrastructure construction.

**Land**

- On February 18, 2005, People's Committee of Hanoi issued Decision 23/2005/QD-UB to replace Decision 69/1999/QD-UB and Decision 65/2001/QD-UB, regulating the requirements, order and procedures for granting certificate of land-use right in Hanoi.

**Transportation**

- Government's Decree 21/2005/ND-CP, dated March 01, 2005, with detailed regulation on the implementation of a number of articles of the Law on internal waterway traffic.

**Labor**

- On February 25, 2005, the Ministry of Labor, War Invalids and Social Affairs issued Circular 13/2005/TT-BLDTBXH, guiding the policy on employees, according to Government's Decree 187/2004/ND-CP, dated November 16, 2004.
- Government's Decree 19/2005/ND-CP, dated February 28, 2005, regulating the requirements, procedures for establishment and operation of employment service agency.
- Decision 40/2005/QD-TTg, dated February 28, 2005, of the Prime Minister, on the establishment of National Council on labor protection.

**Fishery**

- Government's Decree 27/2005/ND-CP, dated March 08, 2005, issuing the detailed regulations on the implementation of the Law on Fisheries.

**Customs**

- Circular 14/2005/TT-BTC, dated February 16, 2005, of the Ministry of Finance, guiding the implementation of Decree 138/2004/ND-CP, dealing with administrative violations in the field of customs.

**Miscellaneous**

- Government's Decree 20/2005/ND-CP, dated February 28, 2005, on the supplementation to the list of projects, which borrow credit for development investment of the State, in accordance with Decree 106/2004/ND-CP.
- On March 02, 2005, the Government issued Decree 26/2005/ND-CP on the establishment of council for asset evaluation in criminal procedures.
- On March 11, 2005, the Government issued Decree 30/2005/ND-CP, dealing with administrative violations in the measuring and mapping.
- The Government issued Decree 32/2005/ND-CP on March 14, 2005, on the regulations on mainland border gates.

## **Contact Details**

### **Hanoi Head Office**

Mr. Pham Nghiem Xuan Bac

*Managing Partner*

Mr. Pham Minh Hai

*Partner, Consulting*

Ms. Le Quynh Anh

*Partner, Legal*

Ms. Le Thi Kim Dzung

*Partner, Intellectual Property*

Unit 2, 1st Floor, International Center

17 Ngo Quyen, Hanoi, Vietnam

Tel: 84-4 934-0629 / 824-1623 Fax: 84-4 934-0631

E-mail: [vision@hn.vnn.vn](mailto:vision@hn.vnn.vn)

### **Ho Chi Minh City Office**

Mr. Dang The Duc

*Partner, Manager*

Unit 8A1, 8th Floor, Han Nam Office Building

65 Nguyen Du, District 1, Ho Chi Minh City, Vietnam.

Tel: 84-8 823-6495 / 823-6501 Fax: 84-8 823-6496

E-mail: [hcmvision@hcm.vnn.vn](mailto:hcmvision@hcm.vnn.vn)

[www.vision-associates.com](http://www.vision-associates.com)