

PRECISE INFORMATION ABOUT INCOME TAX LEVIED ON HIGH INCOME EARNERS

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On Jan 20, 1995, the Government promulgated Decree No 05/CP detailing implementation of the Ordinance on Income Tax Levied on High Income Earners.

This decree became effective from June 1, 1994 and replaced Decree No 119/HĐBT dated April 17, 1991 issued by Council of Ministers (called the Government now), Decree No 16/CP dated March 23, 1993 issued by Council of Ministers regulating contributions of worker for years to the National Budget.

Regulations on income tax issued before June 1, 1994 are no longer effective.

Taxation and tax exemption will be implemented in accordance with international agreements and treaties joined or signed by Vietnam. The following are some main features about Vietnam income tax.

SCOPES FOR APPLICATION

Income earners who should pay income tax include:

- Vietnam citizens working in Vietnam or in foreign countries.
- Residents who don't have Vietnamese nationality but reside for unlimited time in Vietnam.
- Foreigners working in Vietnam and foreigners (not residing in Vietnam) whose income is from Vietnam.

TAXABLE REGULAR INCOME

- Total amount of income in different forms: salary, wage, fee.

- Income taking form of subsidies: housing subsidies, water and power consuming subsidies. As for housing subsidies, their actual amount will be taken in account, but can't surpass 15 per cent of total income (from salary, wage, fee).

- Bonus and income in kind from various sources.

- Other earned income for taking part in business societies, board of directors, etc.

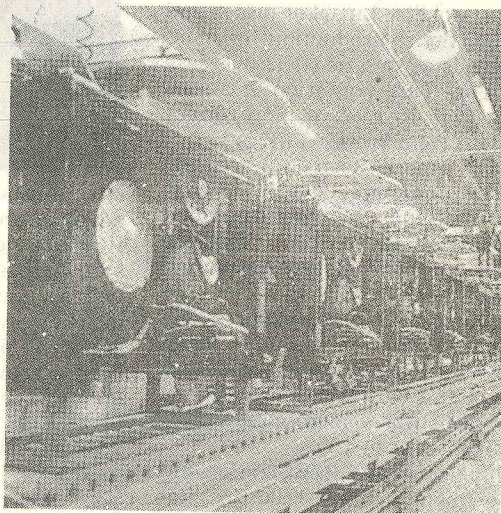
- Other income earned by doing activities which are not taxable such as teaching, supplying consultant services according to a long-term contract, staging as an actor or actress.

TAXABLE IRREGULAR INCOME

- Presents and gifts in cash or in kind of any forms received from organizations and individuals in foreign countries.

- Income for transferring technology under contract which includes: transferring ownership or use rights of industrial properties; trading and supplying know-how, brand name, etc; supplying consultant services; transferring use rights of industrial, commercial or scientific equipment.

- Income for holding copyright of literary, artistic or musical works.



- Income for designing construction and industrial techniques, and other services.

- Income for winning lottery prizes.

INCOME PROVISIONALLY EXEMPT FROM TAX

Interest from bank deposits, savings accounts, shares, certificates of deposit, bonds, is exempt from income tax provisionally.

INCOME EXEMPT FROM TAX

1. The following kinds of income generated in Vietnam:
 - Night-shift allowance.
 - Danger money for doing dangerous works or under dangerous working conditions.
 - Allowances for working in islands and borderland.
 - Seniority allowance for the armed forces.
 - Special allowance for some occupations: surgeon, coroner.
 - Allowances for civil-servants, other allowances paid by the public funds, preferential allowance for veteran cadres who took part in revolutionary struggle before 1945.
 - Operational cost allowance.
 - Food allowance quantified for particular occupations.
 - Social security allowances.
 - Termination allowance for civil servants.
 - Allowance for being sent to a manufacturing concern according to government-set regulations.

- The sum insured for life and property paid by an insurance company.
- Bonus for technical renovation, invention; international and national prizes recognized or organized by the Vietnam Government.
- Bonus accompanies with titles conferred by the Government (such as Professor, People's Teacher, Labor Hero, Hero of the Armed Forces, etc.)

2. Income of private businesspeople who paid corporation tax (profits tax) according to Profits Tax Law (their income isn't included in expenses when taxable profits are decided).

3. Regular income of foreigners residing in Vietnam under 30 days within successive 12 months from the first day of their coming to Vietnam.

BASES FOR CALCULATING INCOME TAX

Income tax calculation is based on taxable income and tax rates.

TAXABLE REGULAR INCOME

Taxable regular income is money of all kinds coming regularly to a person (stated in Article 2, Item 1 of the Decree No 05/CP). This income is calculated on a monthly basis over a year. Details of taxable monthly income calculation are as follows:

1. As for Vietnam citizens working in Vietnam or in foreign countries and other individuals residing in Vietnam: total income in a year (a solar year) is divided by 12.

2. As for foreigners residing in Vietnam for 183 days and up: total income (including both income generated in Vietnam and income generated in foreign countries) is divided by 12. If his (or her) monthly income from foreign countries is declared lower than income in Vietnam but it is unjustifiable, then his (or her) income in foreign countries is considered as the same as his (or her) monthly income in Vietnam. A conventional tax month is 30 days.

3. As for foreigners residing in Vietnam from 30 to 182 days, their taxable income is total income generated in Vietnam.

REGULAR INCOME TAX RATES

1. As for Vietnam citizens and other individuals residing in Vietnam: the Progressive Tax Rates (according to Article 10, Item 1 of the Ordinance on Income Tax) is applied. If after-tax income is over VND5 million a month, 30 per cent of what remains after taking off VND5 million must be paid to tax man.

Regular income tax rates charging on Vietnam citizens and other individuals residing in Vietnam

(VND1,000)

Rank	Average monthly income/person	Tax rate (per cent)
1	to 1,200	0
2	from over 1,200 to 2,000	10
3	over 2,000 to 3,000	20
4	over 3,000 to 4,000	30
5	over 4,000 to 6,000	40
6	over 6,000 to 8,000	50
7	over 8,000	60

2. As for Vietnam citizens' income generated both in Vietnam and in foreign countries, total of those two incomes in tax year divided by 12 will be charged according to

corresponding tax rates stipulated by Article 10, Items 1 and 2 of the Ordinance on Income Tax.

Regular income tax rates charging on foreigners residing in Vietnam and Vietnam citizens working in foreign countries

(VND1,000)

Rank	Average monthly income person	Tax rate (per cent)
1	to 5,000	0
2	from over 5,000 to 12,000	10
3	over 12,000 to 30,000	20
4	over 30,000 to 50,000	30
5	over 50,000 to 70,000	40
6	over 70,000	50

3. As for foreigners residing in Vietnam over 183 days and Vietnam citizens working in foreign countries: the Progressive Tax Rates (stated in Article 10, Item 2 of the Ordinance on Income Tax) are applied.

4. As for foreigners residing in Vietnam for 30 to 182 days: tax rate of 10 per cent of total income is charged according to Article 10, Item 3 of the Ordinance on Income Tax.

TAXABLE IRREGULAR INCOME

Irregular income generated each time is taxed according to Article 2, Item 2 of the Decree No 05/CP.

Tax on presents and gifts is imposed on receivers, even if receivers are private businesspersons.

Tax on income from technology transfer, technical design of construction and industrial equipment will be based on total value of contract, regardless times of payment.

IRREGULAR INCOME TAX RATES

Irregular tax rates are stated in Article 12 of the Ordinance on Income Tax. As for income from presents, gifts, technology transfer, of over VND2 million at a time, tax rate is 5 per cent of total income generated at a time. As for income from lottery prize of over VND12.5 million at a time, tax rate is 10 per cent of total income generated at a time.

Progressive irregular income tax rates (Article 12 of the Ordinance)

Unit: VND1,000

Rank	Income generated at a time	Rate (per cent)
1	Up to 2,000	0
2	From over 2,000 to 4,000	5
3	over 4,000 to 10,000	10
4	over 10,000 to 20,000	15
5	over 20,000 to 30,000	20
6	over 30,000	30

INCOME IN KIND OR IN FOREIGN EXCHANGE

These incomes should be converted into VND before taxing. Value of income in kind will be estimated at local market price at the time it is generated. Presents and gifts in kind from foreign countries will be valued according to price-list used for imposing import duty at the time they are received. Foreign currencies and gold will be valued accord-

ing to selling price of the State Bank announced at the time they are received. If exchange rate of a currency isn't fixed by the State Bank, it will be converted into US\$, and then, into VND.

TAX DECLARATION AND PAYMENT OF INCOME TAX

Organizations and individuals pay tax directly or employers must deduct income tax from each employee's wage or salary and pay to the government.

REGULAR INCOME TAX DECLARATION AND PAYMENT

Income tax on regular income is based on average monthly income in tax year, this tax can be paid temporarily basing on actual monthly income.

1. Vietnam citizens having a certain period of time working in foreign countries declare their average monthly income basing on total income (including income generated in foreign countries) and pay tax in accordance with corresponding tax rate.

2. As for foreigners:

- Those who reside in Vietnam for 30 to 182 days pay income tax according to tax rate stipulated by Article 10, Item 3 of the Ordinance on Income Tax.

- Those who reside in Vietnam for 183 days or more pay income tax according to tax rate stipulated by Article 10, Item 2 of the Ordinance on Income Tax.

- Sojourn time of foreign residents in Vietnam is the days they stayed in Vietnam in successive 12 months in the first tax year. The following years are based on solar year, arrival day and departure day are seen as one day.

IRREGULAR INCOME TAX DECLARATION AND PAYMENT

Irregular income tax should be paid each time when the income is generated.

Individuals and organizations acting as payers should deduct income tax from income paid to receiver (including income of individuals who transfer technology from foreign countries to Vietnam). Persons carrying people's presents and gifts must declare and pay income tax on behalf of receivers.

- Taxpayers must declare all of their incomes, pay tax in full and on time according to regulations of Ministry of Finance.

- Organizations employing foreign employees are responsible for guiding, completing procedures for paying income tax before fulfilling exit requirements for these employees. Foreigners who are imposed on by income tax must make declaration of income and sojourn time to tax authorities or to their employers within 30 days after their arrival in Vietnam, and must pay income tax fully before exiting from Vietnam.

INCOME TAX EXEMPTION AND REDUCTION

Tax exemption and reduction will be given to the following:

- Taxpayers whose income and property are damaged by war, natural disasters or accidents will be given tax exemption or reduction according to degree of being damaged.

- The Prime Minister can give tax exemption or reduction to individuals or organizations working for the public good, the social, political, economic interest of the country.

Procedures for tax exemption and reduction according to Article 18 of the Decree No 05/CP will be regulated by Ministry of Finance. Violations of the Ordinance on Income Tax will be tried according to Articles 21, 22, 23 and 24 of the Ordinance on Income Tax ♣

INVESTMENT PROJECT ASSESSMENT

- What to be assessed in an investment project include:

- The foreign investor and Vietnam partner's legal status and financial strength

- The fitness of the project target for Vietnam's socio-economic development plan and orientation

- The interests of Vietnamese State and partner: capability of making new production, branch and product, market expansion; capability of providing opportunities for working people; financial sources

- Standard of applied technique and technology, proper usage and preservation of resources, protection of ecological environment

- Land-use reasonableness, plan to compensate for surface clearance, valuation of Vietnamese party's assets used as pooled capital if any

- Tax rates, rent of land or water surface and privileges.

- Considering investment project is stipulated as follows:

1. The Prime Minister decided projects of category A including:

- Construction of infrastructure of industrial zone, export processing zone, BOT projects.

- Project with investment capital of from US\$ 40 million upwards, in industries of electricity, mining, gas and petroleum, metallurgy, mechanics, chemicals, cement, telecommunication, electronics, seaport, airport, trading center, cultural site, tourist site, real estate dealing.

- Projects of culture, press, publication.

- Projects in the sector of defense and security

- Projects using urban land covering from 5 hectare upwards and other land from 50 hectare upwards.

2. The Chairman of the State Committee for Co-operation and Investment (SCCI) decided projects of category B which are not defined in category A.

3. Consideration of land lease for the project is taken along with project assessment.

- Assessing Investment project is defined as follows:

- As for projects of category A, the Chairman of SCCI consults opinions of related ministries and submits to the Prime Minister for approval.

In case ministries have different opinions about important issues of the project, the Chairman of SCCI is entitled to form the Consultancy Committee comprising authorized representatives of the State Planning Committee, relevant ministries and experts to examine the project before submitting to the PM. Depending upon