

# TAX RELATIONS AS REGULATED BY THE U.S.-VIETNAM TRADE AGREEMENT

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"At present, clothing items exported from Vietnam to the U.S. should pay normal taxes that vary from 48% to 90% but Vietnam could export US\$37 million worth of clothing in 1999 in spite of high tax rates. When the U.S. - Vietnam Trade Agreement comes into effect, tariffs will be reduced remarkably. The tax rate on dress for example will be 8.77% instead of 90%. Several analysts estimated that in the first year after the trade agreement become effective, export of clothing from Vietnam to the American market will skyrocket, by 100% or 200% at times." (*Thời báo kinh tế Saigon* [Saigon Economic Times] March 8, 2001.)

From this information, we could see the importance of the bilateral trade agreement to Vietnam's export business, including the export of clothing to the U.S. The U.S. - Vietnam Trade Agreement, in its Chapter I "National Treatment", Article 2, paragraphs 1 and 2 read:

"1. Each Party shall administer tariff and nontariff measures affecting trade in a manner which affords meaningful competitive opportunities for products of the other Party with respect to domestic competitors.

"2. Accordingly, neither Party shall impose, directly or indirectly, on the products of the other Party imported into its territory, internal taxes or charges of any kind in excess of those applied, directly or indirectly, to like domestic products."

The concept of "national treatment" is new to Vietnam. It requires contracting parties to ensure equal treatment for foreign and local firms and individuals in terms of taxes and charges on imports or exports, including indirect taxes and other internal fees.

## 1. Indirect taxes

a. As for tariffs, all of them will be cut when charging on imports from Vietnam. The American customs are responsible for collecting customs duties and applying other laws relating to trademark, copyright, intellectual property, environmental protection,

addictive substance control, etc. Improving tax collecting procedures is necessary for Vietnam to carry out the bilateral trade agreement and other WTO obligations in the future.

b. Special consumption tax: In Vietnam, this tax is imposed on eight items which are either produced locally (such as tobacco, beer, wines, spirits, playing cards, burnt offerings, etc.) or imported (cars under five seats and fuel) and it's planned that this tax is imposed on more imported items when Vietnam carries out the CEPT set by the ASEAN by 2003. That is why the U.S. - Vietnam Trade Agreement pays attention to this internal tax. The Annex A "Vietnam: Exceptions on National Treatment" reads:

"The provisions of Chapter I, Article 2 are not applied to the following:

1. Special consumption tax on vehicles under 12 seats, inputs of production of cigarettes, and cigars.

2. Supplemental tax on fuels, metals and fertilizers.

The aforementioned exceptions in this annex (paragraphs 1 and 2) will be eliminated within 3 years from the entry into force of this Agreement."

It's worth noting that items mentioned in this annex are main products that will be exported by American firms in the future, therefore the US party pays full attention to the internal taxes with macroeconomic regulating effects in the Vietnamese tax system.

## 2. Direct taxes

The direct tax referred to by the trade agreement is like a net that covers most of taxes on profit, income and gains. Direct taxes, according to the Chapter I, Article 4, paragraph 3, "comprise all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation."

Although the content of this paragraph is concise, a careful analysis

shows that it relates to many taxes applied in Vietnam:

- Many classes of taxes (on company income, personal income, after-tax profit transferred to home countries or to other persons, etc.) are imposed by the American government but they are considered as fees or charges in Vietnam (registration fee, inheritance fee, etc.). Some transfer charge is imposed on gifts and property when being transferred. However, this transfer charge is regulated by two different law documents that introduce two different sets of definitions of rights and obligations of transferees.

- There are certain differences in regulations on income taxes between Vietnamese and American laws (taxable income, tax rates, tax relief, etc.). They originate from the will of legislature, level of socioeconomic development and approach to the national budget and tax obligations. The greatest similarity between two systems is the fact that both parties adopt two principles when imposing the personal income tax: firstly, the country of residence is the place the taxpayer makes the tax declaration; and secondly the taxable income is one generates in the country of residence. Everybody who stays in the U.S. or Vietnam for more than 183 days should declare his/her income generating in the country of residence plus income in other countries.

It's worth noting that Vietnam and the U.S. haven't had any agreement on double taxation and it's expected that this problem will be dealt with later.

In short, regulations on tariff set by the trade agreement show that there is an effort to remove quantitative restriction on Vietnam's exports to the U.S. while regulations on direct taxes aim at helping Vietnam integrate into international practices and standards and facilitating the bilateral economic cooperation. These are two of the most progressive factors affecting the Vietnamese tax system introduced by the agreement. ■