

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom – Happiness

No. 18/2021/ND-CP

Hanoi, March 11, 2021

DECREE

AMENDMENTS TO SOME ARTICLES OF THE GOVERNMENT’S DECREE NO. 134/2016/ND-CP DATED SEPTEMBER 01, 2016 ELABORATING THE LAW ON EXPORT AND IMPORT DUTIES

Pursuant to the Law on Government Organization dated June 19, 2015 and the Law dated November 22, 2019 on Amendments to the Law on Government Organization and the Law on Local Government Organization;

Pursuant to the Law on Export and import duties dated April 06, 2016;

Pursuant to the Law on Customs dated June 23, 2014;

Pursuant to the Law on Investment dated June 17, 2020;

Pursuant to the Law on Tax Administration dated June 13, 2019;

Pursuant to the Law on Foreign Trade Management dated June 12, 2017;

At the request of the Minister of Finance;

The Government promulgates a Decree on amendments to some Articles of the Government’s Decree No. 134/2016/ND-CP dated September 01, 2016 elaborating the Law on Export and import duties.

Article 1. Amendments to some Article of the Government’s Decree No. 134/2016/ND-CP dated September 01, 2016 elaborating the Law on Export and import duties

1. Amendments to Clause 1 of Article 3 and addition of Clause 3 to Article 3:

“Article 3. Application of duty rates on exports and imports

1. Duty rates on goods that are exported and imported through Vietnam’s border checkpoints and border, in-country exports and imports shall be applied in accordance with Article 5, Article 6 and Article 7 of the Law on Export and Import Duties. Duty rates shall be applied to in-country exports and imports in accordance with Clause 3 of this Article.

3. Application of duty rates on in-country exports and imports

a) In-country exports shall apply the export duty rates specified in the Government's Decree No. 122/2016/ND-CP, Decree No. 57/2020/ND-CP, Decree No. 125/2017/ND-CP, their amendments and replacements (if any).

b) In-country imports (except goods imported from free trade zones prescribed in Point c of this Clause) shall apply the preferential import tariff rates specified in Decree No. 125/2017/ND-CP, Decree No. 57/2020/ND-CP, their amendments and replacements (if any).

c) Goods that satisfy the rules of origin of a country, group of countries or territories that apply most-favored nation treatment in their trade relations with Vietnam and are imported from free trade zones into the domestic market; goods that are manufactured, processed, recycled or assembled in free trade zones but do not meet the conditions for enjoyment of special preferential import tariff rates and are imported from free trade zones into the domestic market shall apply the preferential import tax tariff rates specified in Decree No. 125/2017/ND-CP, Decree No. 57/2020/ND-CP, their amendments and replacements (if any).

Goods that satisfy the rules of origin of a country, group of countries or territories that have entered into special preferential import tariff with Vietnam, are imported from free trade zones into the domestic market and satisfy other conditions for enjoyment of special preferential import tariff rates; goods that are manufactured, processed, recycled or assembled in free trade zones, meet the conditions for enjoyment of special preferential import tariff rates and are imported from free trade zones into the domestic market shall apply the special preferential import tax tariff rates specified in the Government's Decrees on special preferential import tariff schedules serving execution of international treaties to which the Socialist Republic of Vietnam is a signatory.

Imports that do not satisfy the rules of origin of a country, group of countries or territories that apply most-favored nation treatment, do not satisfy the conditions for enjoyment of special preferential import tariff rates, and are imported from free trade zones into the domestic market shall apply the ordinary import tax tariff rates prescribed in Point c Clause 3 Article 5 of the Law on Export and Import Duties No. 107/2016/QH13 and the Prime Minister's Decisions on application of ordinary tariff rates on imports.

d) In-country imports on the List of tariff-rate quota goods shall apply the regulations on the List of tariff-rate quota goods and import tariff rates thereon of Decree No. 125/2017/ND-CP, Decree No. 57/2020/ND-CP, their amendments and replacements (if any).”

2. Amendments to Clause 3, Clause 6, Clause 7 and Clause 8 of Article 5:

“Article 5. Grant of duty exemption to goods of foreign entities enjoying diplomatic immunity and privileges

3. In addition to the commodities listed in Appendix I, Appendix II and Appendix III hereof, the entities specified in Point a and Point b Clause 1 of this Article are also granted exemption from import duties on other goods that are necessary for their works. The categories and quota on duty-free imports are subject to confirmation by the Ministry of Foreign Affairs.

6. Application for duty exemption:

- a) A customs dossier prescribed by customs laws, except for duty-free goods purchased at duty-free shops;
- b) The quota book for duty-free goods (hereinafter referred to as “quota book”) specified in Clause 8 of this Article: 01 photocopy, unless it has been updated on National Single-window Information Portal;
- c) Documents proving completion of re-export, destruction or transfer of the goods in the cases specified in Clause 5 of this Article: 01 photocopy;
- d) A confirmation of the Ministry of Foreign Affairs in case of import of goods mentioned in Clause 2, Clause 3 of this Article: 01 photocopy;
- dd) The Prime Minister’s Decision on duty exemption in case of goods import specified in Clause 4 of this Article: 01 photocopy.

7. Procedures for granting duty exemption are specified in Article 31 of this Decree.

a) In the cases specified in Clause 2 of this Article: the foreign organization shall complete and send a written request (Form No. 02a in Appendix VII hereof) to the Ministry of Foreign Affairs. Within 05 working days from the receipt of the request, the Ministry of Foreign Affairs shall issue a confirmation (Form No. 02b in Appendix VII hereof) or rejection (which provides explanation). The customs authority shall consider granting duty exemption according to the documents specified in Clause 6 of this Article.

b) In the cases specified in Clause 3 of this Article: The foreign organization or individual (hereinafter referred to as “foreign entity”) shall complete and send a written request for confirmation of categories and quota on duty-free goods (Form No. 02c in Appendix VII hereof) to the Ministry of Foreign Affairs. Within 05 working days from the receipt of the request, the Ministry of Foreign Affairs shall issue a confirmation (Form No. 02d in Appendix VII hereof) or rejection (which provides explanation). The customs authority shall consider granting duty exemption according to the documents specified in Clause 6 of this Article.

c) In the cases specified in Clause 4 of this Article:

The foreign entity shall complete and send Form No. 02e in Appendix VII hereof to the Ministry of Finance. Within 10 days from the receipt of the form, the Ministry of Finance shall discuss with the Ministry of Foreign Affairs on the categories and quota on duty-free imports under the international treaty or agreement between Vietnam Government and the foreign non-governmental organization.

Within 10 days from the receipt of the document from the Ministry of Foreign Affairs, the Ministry of Finance shall request the Prime Minister to consider deciding the categories and quota on duty-free imports. The Prime Minister shall consider issuing a duty exemption decision

(Form No. 02g in Appendix VII hereof) to the foreign entity. The customs authority shall grant duty exemption according to the documents specified in Clause 6 of this Article.

The customs authority where customs procedures are followed shall monitor the use of duty-free quota electronically. In case electronic monitoring is not available, the taxpayer shall submit 01 photocopy and present the original quota book for comparison and deduction.

8. Procedures for issuance of quota book or increase of quota therein

a) Application submitted by an organization shall include the following documents:

The written request for issuance of the issuance of the quota book or quota increase (Form No. 01 or Form No 01a in Appendix VII hereof: 01 original copy;

Notice of the establishment of the representative agency in Vietnam after the quota book is issued for the first time: 01 photocopy;

Documents proving completion of re-export, destruction or transfer of the goods in case the entity specified in Point a, Point b Clause 1 of this Article requests additional quota on automobiles or motorcycles to the quota book: 01 photocopy;

The international treaty or agreement between Vietnam's government and the foreign non-governmental organization which specifies the categories and quota on duty-free goods: 01 photocopy;

The Prime Minister's decision on duty exemption if the international treaty or agreement between Vietnam's government and the foreign non-governmental organization does not specify the categories and quota on duty-free goods (for the organizations specified in Point c, Point d Clause 1 of this Article): 01 photocopy.

b) Application submitted by an individual shall include the following documents:

The written request for issuance of the issuance of the quota book or quota increase (Form No. 02 or Form No 02i in Appendix VII hereof: 01 original copy;

The ID card issued by the Ministry of Foreign Affairs (for the individuals specified in Point a, Point b Clause 1 of this Article: 01 photocopy;

Documents proving completion of re-export, destruction or transfer of the goods in case the entity specified in Point a, Point b Clause 1 of this Article requests additional allowance for automobiles or motorcycles to the quota book: 01 photocopy;

The work permit or a legally equivalent document issued by a competent authority if the applicant is a member of an international organization or non-governmental organization (for persons mentioned in Point d Clause 1 of this Article): 01 photocopy;

The international treaty or agreement between Vietnam's government and the foreign non-governmental organization which specifies the categories and quota on duty-free goods: 01 photocopy;

The Prime Minister's decision on duty exemption if the international treaty or agreement between Vietnam's government and the foreign non-governmental organization does not specify the categories and quota on duty-free goods (for the entities specified in Point c, Point d Clause 1 of this Article): 01 photocopy.

c) Authority to issue the quota book or increase quota therein

Directorate of State Protocol – The Ministry of Foreign Affairs or an agency authorized by the Ministry of Foreign Affairs shall issue quota books using Form No. 02h1 or Form No. 02h2 or Form No. 02h3 in pl VII hereof to the entities specified in Point a and Point b Clause 1 of this Article within 05 working days from the day on which adequate documents are received.

Customs Departments of provinces, inter-provinces and central-affiliated cities (hereinafter referred to as “provinces”) where the organizations mentioned in Point c and Point d Clause 1 of this Article are located shall issue quota books using Form No. 02h4 or Form No. 02h5 in Appendix VII hereof to the organizations and individuals mentioned in Point c and Point d Clause 1 of this Article within 05 working days from the day on which adequate documents are received.

The Ministry of Foreign Affairs shall monitor and issue quota book to the entities granted diplomatic immunity and privileges mentioned in Point c Clause 1 of this Article if they have been issued with quota books by the Ministry of Foreign Affairs before the effective date of this Decree.

After a quota book is issued, the issuing authority mentioned in this Point shall update General Department of Customs with information in the quota book via National Single-window Information Portal.”

3. Amendments to Point b Clause 2 Article 8:

“Article 8. Exemption of duties on gifts

2. Duty-free quota

b) For gifts given by a foreign organization or individual to a Vietnamese organization whose operating cost is covered by state budget as prescribed by state budget laws and the receipt of which is permitted by a competent authority, or gifts given for humanitarian or charitable purposes, the allowance will be the entire value of the gifts and duty exemption shall be granted up to 04 times per year.

4. Amendments to Point g Clause 1, Clause 2, Clause 4 and Clause 5 of Article 10:

“Article 10. Exemption of duties on goods imported for further processing and processed exports

1. Goods imported for further processing and processed exports under processing contracts that are exempt from export and import duties specified in Clause 6 Article 16 of the Law on Export and import duties include:

g) Processed products that are exported to a foreign country, a free trade zone or an organization or individual in Vietnam as requested by the hirer.

Processed exports are exempt from export duties as prescribed by this Point if they are entirely processed from imported goods. In case processed exports are made of dutiable domestic raw materials or supplies, export duties on the value of raw materials or supplies incorporated into the products at the duty rates applied to such raw materials or supplies shall be paid when the products are exported.

2. Basis for determination of eligibility for duty exemption:

a) The taxpayer has a processing contract that is conformable with regulations of Decree No. 69/2018/ND-CP. The taxpayer shall specify the number of the processing contract and its appendices on the customs declaration.

b) The taxpayer or processor hired by the taxpayer has the right to ownership or enjoyment of the processing facility in Vietnam and equipment in the facility and has submitted the facility notification, the processing contract, sub-processing contract and their appendices to the customs authority in accordance with customs law. In case these documents are not submitted on schedule, the taxpayer shall only incur administrative penalties for customs offences as per regulations.

c) In case the taxpayer (that has a processing contract) assigns another organization or individual (hereinafter referred to as “third party”) that satisfies the requirements specified in Point b of this Clause to process some or all of the stages, then receive the semi-finished products for further processing or receive the finished products for export, the taxpayer will be exempt from import duty on the imports assigned to the sub-processor.

In case the taxpayer (that has a processing contract) assigns all or part of the imports or semi-finished products that are processed from imports to a third party in a free trade zone or a foreign country, the imports or semi-finished products are exempt from export duties. The products that are imported into Vietnam after being processed overseas are subject to import duties according to Point d Clause 1 Article 11 of this Decree. The products that are imported into the domestic market of Vietnam after being processed in the free trade zone are subject to import duties as prescribed in Clause 2 Article 22 of this Decree.

d) The taxpayer (that has a processing contract) shall report the use of duty-free imports in accordance with customs laws.

dd) The quantity of imports used for processing the products that have been exported to a foreign country or a free trade zone that is exempt from import duties is the quantity of goods imported in for processing the exported products in reality.

Regulations of Point g and Point h of this Clause shall apply to goods imported for processing products that are exported to another domestically located organization or individual (outside of free trade zones), and in-country processed imports.

e) Goods imported for further processing, scrap and refuses produced during processing that are returned to the foreign hirer are exempt from export and import duties.

Goods imported for further processing, processed products, scrap and refuses produced during processing that are permitted to be destroyed and have been destroyed in reality are exempt from import duties.

In case goods are imported for manufacture of outward processing but processed products are not exported or redundant imports are not exported, the taxpayer shall register a new customs declaration, declare and pay tax to the customs authority according to the duty rates and dutiable values of imports at the time of registration of the customs declaration, except for gifts specified in Article 8 of this Decree.

g) The quantity of imported goods that are used for processing in-country exports in reality will be exempt from import duties if the in-country exporter has sent the customs authority a notification (Form No. 22 in Appendix VII hereof) of the customs declaration of the in-country imports within 15 days from the day on which customs clearance is granted to the in-country exports.

If the in-country exporter fails to submit the notification to the customs authority by the deadline, the in-country exporter shall register a new customs declaration, declare and pay duties on the imports used for processing the in-country exports at the rates and dutiable values of the imports that are applicable when the new customs declaration is registered.

If the in-country exporter submits a notification of the customs declaration of the in-country imports to the customs authority after duties are paid, the paid duties shall be settled in accordance with regulations of law on settlement of overpaid tax.

h) Goods that are imported in-country for processing according to the customs declaration shall be exempt from import duties if the importer satisfies the requirements specified in Point a and Point b of this Clause. If goods that are imported in-country for other purposes, the in-country importer shall declare and pay duties at the rates and dutiable values of the in-country imports that are applicable when the declaration is registered.

In case the in-country importer has paid import duties, used the in-country imports for manufacture of goods for export and exported the goods to a foreign country or a free trade zone in reality, paid import duties will be refunded in accordance with Article 36 of this Decree.

4. Scraps and refuses produced during the processing of exports shall be exempt from import duties when they are sold domestically. The taxpayer does not have to follow customs procedures but shall declare and pay VAT, excise tax, environment protection tax (if any) to the tax authority in accordance with tax laws.

5. Procedures for granting duty exemption are specified in Article 31 of this Decree.

While following procedures for in-country export of the goods specified in this Article, in addition to the duty exemption application specified in Article 31 of this Decree, the in-country exporter shall also submit the document requesting delivery of goods in Vietnam of a foreign entity: 01 photocopy.”

5. Amendments to Point a Clause 1 of Article 11:

“Article 11. Exemption of duties on goods exported for processing and processed imports

1. Goods exported for processing and processed imports under processing contracts exempt from export and import duties specified in Clause 6 Article 16 of the Law on Export and import duties comprise:

a) Raw materials, supplies and components for export.

Export duties shall be charged on the value or quantity of raw materials, supplies and components corresponding to the quantity of processed products that are not re-imported at the duty rates applied to such raw materials, supplies and components.

Where goods exported for processing are natural resources, minerals or products in which the value of natural resources or minerals plus (+) energy cost makes up at least 51% of the product price and the goods are subject to export duties (except scraps produced during the manufacture or processing of the imports for export), duty exemption shall not be granted.

Products in which the value of natural resources or minerals plus (+) energy cost makes up less than 51% of the product price shall be determined in accordance with Decree No. 100/2016/ND-CP dated July 01, 2016 on guidelines for the Law on amendments to the Law on Value-added tax, the Law on special excise duty, the Law on Tax administration and the Government’s Decree No. 146/2017/ND-CP.”

6. Amendments to Article 12:

“Article 12. Exemption of duties on goods imported for manufacture of domestic exports

1. Goods imported for manufacture of domestic exports are exempt from import duties as prescribed in Clause 7 Article 16 of the Law on Export and import duties, including:

a) Raw materials, supplies (including those for manufacture of packages of exports), components, semi-finished products imported incorporated into the exports or used during the manufacture of exports without being incorporated into the exports;

b) Finished products that are imported for packaging, labeling or attaching to exports or packaging with exports as a whole;

c) Components and parts imported for repair of exports under warranty;

d) Goods imported as samples that are not traded or used;

dd) Goods imported for manufacture of domestic exports but are permitted to be destroyed in Vietnam and have been destroyed in reality.

2. Basis for determination of eligibility for duty exemption:

a) The taxpayer has the right to ownership or right to enjoyment of the facility in Vietnam where domestic exports are manufactured and equipment therein. The taxpayer has submit the notification of the manufacturing facility and equipment therein; notification of the hired manufacturer or processor's manufacturing facility, the manufacturing or processing contract to the customs authority in accordance with customs law. In case the notification is not submitted on schedule, the taxpayer shall only incur administrative penalties for customs offences.

The taxpayer assigns the imports mentioned in Clause 1 of this Article to a third party that has the right to ownership or right to enjoyment of the facility for manufacture or processing in the following cases:

a1) The taxpayer that assigns all or part of the imports to a third party within Vietnam's territory for manufacture or processing through one or some stages, then receives the semi-finished products for further processing into finished exports will be exempt from import duties on the assigned imports.

a2) The taxpayer that assigns all or part of the semi-finished products that are manufactured by the taxpayer from imports to a third party within Vietnam's territory for manufacturing or processing through one or some stages, then receives the semi-finished products for further processing into exports or receives the finished products for export will be exempt from import duties on the imports assigned to the third party for manufacturing of the semi-finished products.

a3) The taxpayer that assigns part of the imports to a third party in Vietnam for processing into finished products, then receives the finished products for export will be exempt from import duties on the imports assigned to the third party.

a4) The taxpayer that assigns the imports or semi-finished products that are entirely manufactured from the imports to a third party for manufacture or processing in a free trade zone or a foreign country in one of the cases specified in a.1, a.2, a.3 of this Clause will be exempt from import duties on the imports or semi-finished products that are entirely manufactured from

the imports assigned to the third party. The products manufactured or processed overseas by the third party are subject to import duties when they are imported back into Vietnam as prescribed in Point d Clause 1 Article 11 of this Decree. Products that are manufactured or processed by the third party are subject to import duties when they are imported into Vietnam's domestic market as prescribed in Clause 2 Article 22 of this Decree.

b) The taxpayer that imports goods as prescribed in Clause 1 of this Article and assigns all of the imports to an organization (third party) in which the taxpayer holds over 50% charter capital or total ordinary shares for manufacturing or processing, then receives the products for export will be exempt from import duties on the assigned imports, even if the third party hires another unit to process one or some stages. The third party shall have the right to ownership or enjoyment of a manufacturing or processing facility in Vietnam and equipment therein. The taxpayer shall submit the notification of the third party's manufacturing or processing facility to the customs authority in accordance with customs Law. In case the taxpayer fails to submit such notification on schedule, the taxpayer shall only incur administrative penalties for customs offences.

The taxpayer shall also submit the following documents together with the aforementioned notification:

The Certificate of Enterprise Registration or latest audited financial statement of the taxpayer and the third party: 01 certified true copy;

The taxpayer's and third party's operation charters: 01 certified true copy;

The shareholder register (for joint stock companies) or member register (for multiple-member limited liability companies) of the taxpayer and the third party: 01 certified true copy.

The taxpayer that assigns all of the imports to a third party in a free trade zone or a foreign country for manufacturing or processing will be exempt from import duties on the assigned imports. The products manufactured or processed overseas by the third party are subject to import duties when they are imported back into Vietnam as prescribed in Point d Clause 1 Article 11 of this Decree. Products that are manufactured or processed by the third party in a free trade zone are subject to import duties when they are imported into Vietnam's domestic market as prescribed in Clause 2 Article 22 of this Decree.

c) The taxpayer shall report the use of duty-free imports in accordance with customs laws.

d) The quantity of imports used for processing the products that have been exported to a foreign country or a free trade zone that is exempt from import duties is the quantity of goods imported in for processing the exported products in reality.

Regulations of Points e, g, h of this Clause shall apply to the imports used for manufacture of products that are exported to another domestically located organization and individual (outside of free trade zones), in-country exports and in-country imports.

dd) Goods imported for manufacturing, manufactured products, scrap and refuses produced during manufacturing that are permitted to be destroyed and have been destroyed in reality are exempt from import duties.

In case goods are imported for manufacture of domestic exports are not used or the products are not exported, import duties shall not be exempt. In this case the taxpayer shall register a new customs declaration, declare and pay tax to the customs authority according to the duty rates and dutiable values of imports at the time of registration of the customs declaration, except for gifts specified in Article 8 of this Decree.

e) The quantity of imported goods that are used for manufacturing in-country exports in reality will be exempt from import duties if the in-country exporter has sent the customs authority a notification (Form No. 22 in Appendix VII hereof) of the customs declaration of the in-country imports within 15 days from the day on which customs clearance is granted to the in-country exports.

If the in-country exporter fails to submit the notification to the customs authority by the deadline, the in-country exporter shall register a new customs declaration, declare and pay duties on the imports used for manufacturing the in-country exports at the rates and dutiable values of the imports that are applicable when the new customs declaration is registered.

If the in-country exporter submits a notification of the customs declaration of the in-country imports to the customs authority after duties are paid, the paid duties shall be settled in accordance with regulations of law on settlement of overpaid tax.

g) In-country exports are not exempt from export duties. The in-country exporter shall register the in-country export declaration, declare and pay export duties at the rates and values of the in-country exports that are applicable when the declaration is registered.

h) Goods that are imported in-country for processing according to the customs declaration shall be exempt from import duties if the importer satisfies the requirements specified in Point a and Point b Clause 2 Article 10 of this Decree. If goods that are imported in-country for other purposes, the in-country importer shall declare and pay duties at the rates and dutiable values of the in-country imports that are applicable when the declaration is registered.

In case the in-country importer has paid import duties, used the in-country imports for manufacture of goods for export and exported the goods to a foreign country or a free trade zone in reality, paid import duties will be refunded in accordance with Article 36 of this Decree.

3. Procedures for granting duty exemption are specified in Article 31 of this Decree.

While following procedures for in-country export of the goods specified in this Article, in addition to the duty exemption application specified in Article 31 of this Decree, the in-country exporter shall also submit the document requesting delivery of goods in Vietnam of a foreign entity: 01 photocopy

4. Scraps and refuses produced during the manufacture of exports shall be exempt from import duties when they are sold domestically. The taxpayer does not have to follow customs procedures but shall declare and pay VAT, excise tax, environment protection tax (if any) to the tax authority in accordance with tax laws.”

7. Amendments to Clause 4 of Article 14 and addition of Clause 6 to Article 14:

“Article 14. Exemption of duties on imported fixed assets of entities eligible for investment incentives

4. The Ministry of Planning and Investment shall establish criteria for identification of supplies that cannot be domestically manufactured.

Specialized vehicles used in technological line directly serving manufacturing activities of investment projects shall be identified in the basis of the List or criteria set out by the Ministry of Science and Technology for identification of duty-free imports or confirmations of the Ministry of Science and Technology of specialized vehicles used in technological line directly serving manufacturing activities of investment projects.

6. Basis for determination of eligibility for duty exemption:

a) The field or business line of the investment project is eligible for investment incentives or special investment incentives; the investment project is located in one of the disadvantaged areas or extremely disadvantaged areas specified in Appendix I and Appendix II of the Government's Decree No. 118/2015/ND-CP and its amending or replacing documents (if any).

b) The investment project's capital is at least 6.000 billion VND, at least 6.000 billion VND is disbursed within 03 days from the issuance date of the Certificate of Investment Registration or written approval for investment guidelines, and one of the following criteria is satisfied: Annual revenue is at least 10.000 billion VND within 03 years after revenue is generated, or there are more than 3.000 employees as prescribed in Point c Clause 2 Article 15 of the Law on Investment No. 61/2020/QH14. Import duties exemption mentioned in Clause 1 of this Article shall be granted on the basis of the project owner’s declaration.

The customs authority that receives the duty-free list shall inspect the disbursement of capital and fulfillment of the criteria for revenue and employees at the premises of the project owner in accordance with post-customs clearance inspection procedures. In case less than 6.000 billion VND is disbursed in 03 years from the issuance date of the Certificate of Investment Registration or written approval for investment guidelines but the criterion for total revenue or employees is not satisfied, the taxpayer is not eligible for import duty incentives prescribed in Clause 1 of this Article and has to fully declare and pay the amount of duties that were exempt plus (+) late payment interest in accordance with tax administration laws.

c) The investment project is located in the rural area and has at least 500 employees (not including part-time employees and employees with employment contracts of less than 12 months): The time for determination of the number of employees is after 12 months from the

project's inauguration date. The project owner shall make the declaration, take responsibility for such declaration, and notify the customs authority of the project's inauguration date using Form No. 21 in Appendix VII hereof. At least 500 employees must be maintained throughout the project's operating period. After the project is officially inaugurated, the customs authority that receives the duty-free list shall inspect the number of employees of the project.

If the project has fewer than 500 employees at the inspection time, it will not be eligible for import duty incentives mentioned in Clause 1 of this Article. The taxpayer shall fully declare and pay the exempted duties plus (+) late payment interest in accordance with the tax administration laws.

In case an investment project has at least 500 employees and is located in both rural and non-rural areas, the number of employees working in the rural area shall be used as the criterion instead of the number of employees working in the non-urban area.

d) High-tech enterprises, science and technology enterprises, science and technology organizations defined by regulations of law on high technology, science and technology.

dd) Investment laws and relevant laws shall apply to identification of eligibility for investment incentives of other entities specified in the Law on Investment No. 61/2020/QH14.

e) The import duty incentives mentioned in Clause 1 of this Article do not apply to investment projects specified in Clause 5 Article 15 of the Law on Investment No. 61/2020/QH14.”

8. Amendments to Clause 1 of Article 15:

Article 15. 5-year exemption from import duties on raw materials, supplies and components

1. Raw materials, supplies and components that cannot be domestically manufactured and are imported for manufacture of the investment projects specified in Points a, b, c of this Clause are exempt from import duties for 05 years from the manufacture commencement date as prescribed in Clause 13 Article 16 of the Law on Export and Import Duties.

a) The field or business line of the investment project is eligible for special investment incentives according to Appendix I of Decree No. 118/2015/ND-CP and its amending or replacing documents (if any).

b) The investment project is located in an extremely disadvantaged area according to Appendix II of Decree No. 118/2015/ND-CP and its amending or replacing documents (if any), or the investment project is one of the projects specified in Point a and Point c Clause 2 Article 16 of Decree No. 118/2015/ND-CP and its amending or replacing documents (if any).

c) The investment project is owned by a high-tech enterprise, science and technology enterprise, science and technology organization defined by regulations of law on high technology, science and technology.

The manufacture commencement time is the official manufacture time minus (-) the experimental production time. The taxpayer shall declare the manufacture commencement date and notify the customs authority where application for duty exemption is received before following customs procedures.

When the 5-year period expires, the taxpayer shall fully declare and pay duties on the amount of imported raw materials, supplies and components that were exempt from import duties but are not used.”

9. Amendments to Clause 1, Clause 5 of Article 28 and addition of Clause 7, Clause 8 and Clause 9 to Article 28:

“Article 28. Exemption of duties on goods exported or imported for social welfare, recovery from a disaster, epidemic or other special incidents

1. Goods exported or imported to serve social welfare works, recovery from disasters, epidemics and other special incidents that are exempt from export and import duties as prescribed in Clause 23 Article 16 of the Law on Export and import duties include:

a) Goods that cannot be domestically manufactured and have to be imported to be used for a project which is part of a social welfare program of the Government are exempt from import duties;

b) Goods that cannot be domestically manufactured and are imported to serve recovery from disasters or epidemics are exempt from import duties;

c) Agarwood derived from planted aquilaria trees and python skin obtained through breeding are exempt from export duties;

d) Unprocessed agricultural products on the List in Appendix VIII hereof that are invested in, grown by Vietnamese enterprises, households, household businesses and individuals in provinces of Cambodia that border to Vietnam and imported through border checkpoints of within customs areas as materials for production in Vietnam are exempt from import duties.

Unprocessed agricultural products that are purchased or invested in provinces of Cambodia that do not border Vietnam are not exempt from import duties as prescribed in this Point.

dd) Exports and imports in other special cases where the Prime Minister decides to grant exemption of export and import duties on a case-by-case basis and at the request of the Ministry of Finance.

5. An application for exemption of duties on exports/imports in other special cases consists of:

a) The written request for exemption of export/import duties by a Ministry, ministerial agency, the People’s Committee of the province, organization or individual which specifies the reasons,

quantities, categories and values of goods and the amount for duties to be exempted: 01 original copy;

b) The list of exports/imports (Form No. 04 in Appendix VII hereof): 01 original copy.

7. Procedures for exemption of duties on goods exported or imported for social welfare, recovery from disasters, epidemics and other special incidents:

The taxpayer shall submit the application specified in Clause 3, Clause 4, Clause 5 of this Article to the Ministry of Finance. Within 30 days from the receipt of the satisfactory application, the Ministry of Finance shall verify it and submit a report together with the list of goods to the Prime Minister for consideration. In other cases where comments of other ministries and authorities are necessary, the time limit for verifying the application may be extended but must not last longer than 40 days. Within 15 days from the receipt of the verification report from the Ministry of Finance, the Prime Minister shall issue an decision on exemption of export/import duties (Form No. 23 in Appendix VII hereof) or send a written rejection to the applicant.

The customs authority where export/import procedures are followed shall fulfill the Prime Minister's decision.

8. Documentation and procedures for exemption of export duties on agarwood derived from planted aquilaria trees and python skin obtained through breeding:

The same documents and procedures specified in Article 31 of this Decree. For python skin obtained through breeding, the following documents are also required:

a) The certificate of registration of breeding facility for wild animals issued by the local forest protection authority or an authority appointed by the Ministry of Agriculture and Rural Development: 01 photocopy, which must be with the original copy presented for comparison during the first export shipment;

b) The written confirmation of quantity of slaughtered captive-bred pythons issued by the local forest protection authority for every export: 01 photocopy with the original copy presented for comparison.

9. Procedures for exemption of duties on unprocessed agricultural products invested in or grown in Cambodia and imported into Vietnam:

e) The taxpayer shall annually submit the application for registration of the duty-free list through the electronic data processing system to the Customs Department of the province that borders Cambodia. Physical documents shall be submitted to the Customs Department of the province that borders Cambodia in accordance with Article 30 of this Decree.

In addition to the documents notifying the duty-free list specified in Clause 3 Article 30 of this Decree, the taxpayer shall also submit the following documents:

A certification of investment permission issued by a competent authority in Cambodia where the Vietnamese enterprise makes investment: 01 photocopy enclosed with 01 Vietnamese translation bearing the enterprise's seal;

The contract or agreement with the Cambodian party on investment assistance, farming and receiving agricultural products which specifies the amount of money and goods invested in each field, corresponding quantities, categories and value of the agricultural products to be harvested: 01 photocopy with the original copy presented for comparison;

Documents relevant to the investment assistance, farming in the Cambodia's province that borders Vietnam (if any): 01 photocopy, which must be with the original copy presented for comparison during the first import shipment.

b) On the basis of the duty-free list submitted to the customs authority, the taxpayer shall follow the procedures for granting duty exemption are specified in Article 31 of this Decree.

The customs authority shall compare the duty-free list registration application, the list of households, household businesses and individuals that provide investment assistance or farm in Cambodia provinces that border Vietnam, which is annually published by the People's Committee of their provinces, with the actual imports to decide whether to grant exemption of import duties on each import shipment.

The People's Committees of provinces bordering Cambodia shall annually publish lists of households, household business, resident individuals that provide investment assistance or farm in Cambodia provinces that border Vietnam according to Form No. 11 in Appendix VII hereof on their websites and send them to Customs Departments of provinces and Sub-departments of Customs responsible for the checkpoints in the bordering provinces. In case of changes to criteria in the published documents, revising documents must be issued.”

10. Addition of Article 28a after Article 28:

“Article 28a. Conditions for customs supervision and inspection and application for tax policies on exporting processing enterprises (EPE) that are free trade zones (FTZ)

1. Conditions for customs supervision and inspection of an EPE that is a FTZ include:

a) There are hard fences that separate the EPE from the outside; there are gates/doors that are the only ways for goods to enter and leave the EPE.

b) There are surveillance cameras at the entrances and exits where goods are stored throughout the day (24/24 hours, including days off and holidays); images recorded by these cameras shall be transmitted to the supervisory customs authority of the EPE and retained at the EPE for at least 12 months.

The Director of the General Department of Customs shall prescribe the format of surveillance camera data to be exchanged between customs authorities and EPEs mentioned in Point b of this Clause.

c) There software for management of duty-free goods of the EPE serving preparation of reports on receipt, discharge, inventory and use of imports required by customs laws.

2. Procedures for inspecting and confirming fulfillment of conditions for customs supervision and inspection EPEs and investors in EPE projects.

a) In case the investor applies for the Certificate of Investment Registration for a new project (or a written confirmation by an investment registration authority if the Certificate of Investment Registration is not required):

The investor shall submit 01 written declaration of fulfillment of the conditions for customs supervision and inspection specified in Clause 1 of this Article (Form No. 24 in Appendix VII hereof) to the investment registration authority together with the application for the Certificate of Investment Registration (or application for the written confirmation by an investment registration authority if the Certificate of Investment Registration is not required).

The investment registration authority shall send an enquiry to a competent customs authority about fulfillment of customs supervision and inspection specified in Clause 1 Article 30 of the Government's Decree No. 82/2018/ND-CP on management of industrial zones and economic zones (hereinafter referred to as Decree No. 82/2018/ND-CP) and its amending or replacing documents (if any), and fulfillment of regulations of this Decree together with the investor's application (01 original copy).

Within 03 working days from the receipt of documents from the investment registration authority, in consideration of the investor's application and declaration, the customs authority shall consider issuing a confirmation of fulfillment of conditions for customs supervision and inspection (Form No. 24 in Appendix VII hereof) and sending it to the investment registration authority.

b) In case the investor applies for issuance of revision of the Certificate of Investment Registration (if any), or a written confirmation by an investment registration authority if the Certificate of Investment Registration is not required for the project's expansion:

The investor shall submit 01 written declaration of fulfillment of the project's expansion of the conditions for customs supervision and inspection specified in Clause 1 of this Article (Form No. 24 in Appendix VII hereof) to the investment registration authority together with the application for the Certificate of Investment Registration (if any), or the application for the written confirmation by an investment registration authority if the Certificate of Investment Registration is not required.

The investment registration authority shall send an enquiry to a competent customs authority about the fulfillment of customs supervision and inspection of the project's expansion as

specified in Clause 1 Article 30 of Decree No. 82/2018/ND-CP and its amending or replacing documents (if any), and fulfillment of regulations of this Decree together with the investor's application (01 original copy).

Within 03 working days from the receipt of documents from the investment registration authority, in consideration of the investor's application and declaration, the customs authority shall consider issuing a confirmation of fulfillment of conditions for customs supervision and inspection (Form No. 24 in Appendix VII hereof) and sending it to the investment registration authority.

c) In case of conversion of an enterprise into an EPE:

In consideration of the investor's request, the investment registration authority shall send an enquiry to a competent customs authority about the fulfillment of customs supervision and inspection as specified in Clause 1 Article 30 of Decree No. 82/2018/ND-CP and its amending or replacing documents (if any), and fulfillment of regulations of this Decree.

Within 10 working days from the receipt of documents from the investment registration authority, the customs authority shall carry out an inspection of conditions for customs supervision and inspection according to Clause 1 of this Article and send a document (Form No. 26 in Appendix VII hereof) to the investment registration authority about whether these conditions are fulfilled.

3. Investors in investment projects (including new projects and projects' expansions) may apply FTZ tax policies prescribed by the Law on Export and Import Duties from the day on which the EPE mentioned in the Certificate of Investment Registration, the revised Certificate of Investment Registration or the investment registration authority's written confirmation if the Certificate of Investment Registration is not required.

Inspection of fulfillment of conditions for customs supervision and inspection serving application of FTZ tax policies shall be carried out in accordance with Clause 4, Clause 5 and Clause 6 of this Article.

4. Inspection of fulfillment of conditions for customs supervision and inspection of EPEs (including enterprises having new projects and projects' expansions):

a) At least 30 days before the official inauguration date of the EPE specified in the Certificate of Investment Registration, the revised Certificate of Investment Registration (if any) or the investment registration authority's written confirmation in case the Certificate of Investment Registration is not required, or the investment registration authority's confirmation that the EPE's is officially inaugurated later than the date specified in the aforementioned documents, the EPE shall send a notification of fulfillment of the conditions for customs supervision and inspection specified in Clause 1 of this Article (Form No. 25 in Appendix VII hereof) to the supervisory Sub-department of Customs of the EPE.

In case official inauguration date of the EPE is not specified in its Certificate of Investment Registration, the revised Certificate of Investment Registration (if any) or the investment registration authority's written confirmation if the Certificate of Investment Registration is not required, does not specify the, it shall be the date notified by the EPE to the customs authority.

b) Within 10 working days from the receipt of the EPE's notification, its supervisory Sub-department of Customs shall complete the inspection of fulfillment of conditions for customs supervision and inspection specified in Clause 1 of this Article and send a written notification to the EPE (Form No. 26 in Appendix VII hereof) specifying whether these conditions are fulfilled or not. In case these conditions are not fulfilled according to the confirmation, the EPE must fulfill these conditions within 01 year from the day on which the first confirmation is issued by its supervisory Sub-department of Customs.

c) When the conditions specified in Clause 1 of this Article are fulfilled, the EPE shall send a written request for inspection of the fulfillment of these conditions (Form No. 25 in Appendix VII hereof) to its supervisory Sub-department of Customs. Within 10 working days from the receipt of the EPE's request, the Sub-department of Customs shall carry out the inspection and send a notification (form No. 26 in Appendix VII hereof) of whether these conditions are fulfilled.

The EPE may make multiple improvements to the conditions specified in Clause 1 of this Article within 01 year from the day on which the first confirmation is issued by its supervisory Sub-department of Customs.

d) If the EPE fails to submit the notification within 01 year from the issuance date of the first confirmation of the Sub-department of Customs or fails to fulfill the conditions for customs supervision and inspection specified in Clause 1 of this Article, it will not be eligible for FTZ tax policies and has to fully pay the taxes, late payment interest and fines relevant to the imports to which FTZ tax policies were applied which accumulate from the issuance date of the Certificate of Investment Registration, the revised Certificate of Investment Registration or the investment registration authority's written confirmation if the Certificate of Investment Registration is not required regarding the new investment project or project's expansion that fails to satisfy the conditions for customs supervision and inspection specified in Clause 1 of this Article.

In case the EPE fulfills the conditions for customs supervision and inspection specified in Clause 1 of this Article after 01 year and submits the notification to its supervisory Sub-department of Customs in accordance with Point c of this Clause, FTZ tax policies shall be applied from the day on which the Sub-department of Customs issues the confirmation of fulfillment of the conditions for customs supervision and inspection specified in Clause 1 of this Article.

5. Inspection of fulfillment of conditions for customs supervision and inspection by EPEs that are granted the Certificate of Investment Registration, the revised Certificate of Investment Registration (if any), or the investment registration authorities' written confirmations if the Certificate of Investment Registration is not required, before the effective date of this Decree and are operating, including those whose fulfillment of conditions for customs supervision and inspection has been confirmed by customs authorities before the effective date of this Decree:

a) Within 01 years from the effective date of this Decree, the EPE shall fulfill the conditions for customs supervision and inspection specified in Clause 1 of this Article. After such conditions are fulfilled, the EPE shall send a notification (Form No. 25 in Appendix VII hereof) to its supervisory Sub-department of Customs.

b) Within 10 working days from the receipt of the EPE's notification, its supervisory Sub-department of Customs shall complete the inspection of fulfillment of conditions for customs supervision and inspection specified in Clause 1 of this Article and send a written confirmation to the EPE (Form No. 26 in Appendix VII hereof) specifying whether these conditions are fulfilled or not. In case these conditions are not fulfilled according to the confirmation, the EPE must fulfill these conditions within 01 year from the effective date of this Decree.

c) When the conditions specified in Clause 1 of this Article are fulfilled, the EPE shall send a written request for inspection of the fulfillment of these conditions (Form No. 25 in Appendix VII hereof) to its supervisory Sub-department of Customs. Within 10 working days from the receipt of the EPE's request, the Sub-department of Customs shall carry out the inspection and send a notification (form No. 26 in Appendix VII hereof) of whether these conditions are fulfilled.

The EPE may make multiple improvements to the conditions specified in Clause 1 of this Article within 01 year from the effective date of this Decree.

d) If the EPE fails to submit the notification Form No. 25 in Appendix VII hereof within 01 year from the effective date of this Decree or fails to fulfill the conditions for customs supervision and inspection specified in Clause 1 of this Article, it will not be eligible for FTZ tax policies from the expiration date of this 1-year time limit.

In case the EPE fulfills the conditions for customs supervision and inspection specified in Clause 1 of this Article after 01 year and submits the notification to its supervisory Sub-department of Customs in accordance with Point c of this Clause, FTZ tax policies shall be applied from the day on which the Sub-department of Customs issues the confirmation of fulfillment of the conditions for customs supervision and inspection specified in Clause 1 of this Article.

6. EPEs that have been granted the Certificate of Investment Registration, the revised Certificate of Investment Registration (if any), or the investment registration authorities' written confirmations if the Certificate of Investment Registration is not required, before the effective date of this Decree and are under construction, including those whose fulfillment of conditions for customs supervision and inspection has been confirmed by customs authorities as prescribed in Clause 4 of this Article.

7. In the cases specified in Clause 5 and Clause 6 of this Article where FTZ tax policies are not applied for the period from the effective date of the Certificate of Investment Registration, the revised Certificate of Investment Registration (if any), or the investment registration authority's written confirmation if the Certificate of Investment Registration is not required, to the date before the issuance date of the customs authority's confirmation of fulfillment of conditions for customs supervision and inspection as prescribed in Clause 1 Article 30 of Decree No.

82/2018/ND-CP and regulations of this Decree, the paid duties shall be settled in accordance with regulations of tax laws on settlement of overpaid tax after the enterprise has fulfilled the conditions for customs supervision and inspection specified in Clause 1 of this Article.”

11. Amendments to Clause 2, Clause 3 and Clause 4 of Article 29:

“Article 29. Exemption of duties on goods of low values and goods sent by post or express delivery service

2. Imports sent by post or express delivery service whose customs value is not exceeding VND 1.000.000 or duty on which is less than VND 100.000 are exempt from import duties.

Where the customs value of goods exceeds VND 1.000.000 or the total duty payable exceeds VND 100.000, the entire shipment shall be subject to import duties.

3. A shipment whose customs value is not exceeding VND 500.000 or the total export or import duty on which is not exceeding VND 50.000 shall be exempt from export and import duties.

Provisions of this Clause do not apply to gifts, goods traded among border residents and goods sent by post or express delivery service.

4. The application for duty exemption is the customs dossier defined by customs law.”

12. Addition of Article 29a after Article 29:

“Article 29a. Exemption of duties on exports and imports under international treaties

1. Exports and imports exempt from export and import duties under international treaty to which Vietnam is a signatory.

2. Basis for determination of eligibility for duty exemption:

a) Categories and quotas of goods specified in the international treaty;

b) The written confirmation of the authority that proposes conclusion of or accession to the international treaty (hereinafter referred to as “proposing authority”), the line management authority in case the international treaty does not specify the categories and quotas of duty-free goods.

In case the proposing authority is not the line management authority, the written confirmation issued by the proposing authority shall apply.

3. Procedures for confirmation in case the international treaty does not specify the categories and quotas of duty-free goods

a) The organization and individual that uses the duty-free goods shall submit a written request to the proposing authority or line management authority for confirmation of categories and quotas of duty-free goods (Form No. 13 in Appendix VII hereof).

b) Within 15 days from the receipt of the aforementioned request, the proposing authority, the line management authority shall issue a written confirmation of the categories and quotas of duty-free goods and send it to the applicant, or issue a written rejection if the goods are not conformable with the international treaty.

4. Registration of duty-free list

Before registering the first customs declaration of duty-free exports/imports, the exporter/importer shall send register the duty-free list with the customs authority.

a) The application for registration of the duty-free list consists of:

- The registration form No. 05 in Appendix VII hereof: 01 original copy;

- The duty-free list sent via the electronic data processing system of customs authority. In case this system is not functional, the exporter/importer shall submit 02 original copies of the duty-free list (Form No. 06) and 01 original copy of Form No. 07 in Appendix VII hereof.

In case the equipment has to be divided into multiple export/import shipments and thus deduction is not possible at the time of export/import (hereinafter referred to as “combination or assembly line”), the exporter/importer shall submit 02 original copies of Form No. 06 in Appendix VII hereof.

The duty-free list that is conformable with the international treaty or the written confirmation of categories and quotas of duty-free goods issued by the proposing authority or line management authority;

- The international treaty if it specifies the categories and quotas of duty-free goods: 01 photocopy;

- The written confirmation of categories and quotas of duty-free goods mentioned in Point b Clause 3 of this Article: 01 photocopy with the original copy presented for comparison.

b) The locations where the duty-lists are registered or revised; responsibility of the customs authorities that receive duty-free lists; responsibility of submitting entities are specified in Clause 4, Clause 5, Clause 6 and Clause 7 Article 30 of this Decree.

c) In case the duty-free goods are exported/imported by the exporter/importer’s main contractor or subcontractor or a finance lease company, such contractor or finance lease company may use the duty-free list notified to the customs authority by the exporter/importer.

5. Procedures for granting duty exemption are specified in Article 31 of this Decree.”

13. Amendments to Point b and Point k of Clause 3, Point dd of Clause 7 Article 30:

“Article 30. Registration of duty-free list of imports

3. An application for the duty-free list registration consists of:

b) The duty-free list sent via the electronic data processing system of customs authority. In case this system is not functional, the project owner shall submit 02 original copies of the duty-free list (Form No. 06) and 01 original copy of Form No. 07 in Appendix VII hereof.

In case the equipment has to be divided into multiple import shipments and thus deduction is not possible at the time of export/import (hereinafter referred to as “combination or assembly line”), the project owner shall submit 02 original copies of Form No. 06 in Appendix VII hereof;

k) The contract for fabrication of the equipment, components or parts thereof for the goods specified in Point a Clause 11, Point b Clause 15, Point a Clause 16 Article 16 of the Law on Export and Import Duties: 01 photocopy.

In case the documents specified in this Clause are sent by the authorities in the form of electronic data through the National Single-window Information Portal, the project owner is not required to submit them when registering the duty-free list with the customs authority.

7. The project owner shall:

dd) Submit reports on use of duty-free imports as prescribed in Article 31a of this Decree.”

14. Amendments to Point e of Clause 2, addition of Point h to Clause 2, Point c to Clause 3 and Clause 5 of Article 31:

Article 31. Documents and procedures for duty exemption while following customs procedures

2. In addition to the documents mentioned in Clause 1 of this Article, the taxpayer might be requested to submit one of the following documents on a case-by-case basis:

e) A written confirmation of the Ministry of Science and Technology for vehicles specified in Clause 11, Clause 15, Clause 16 of Article 16 of the Law on Export and Import Duties: 01 original copy;

dd) The Prime Minister’s Decision on duty exemption in the cases specified in Points a, b, dd Clause 1 Article 28 of this Decree: 01 photocopy with the original copy presented for comparison.

3. Procedures for granting duty exemption:

c) Electronic data processing system shall deduct the quantity of imports or exports written on the duty-free list.

In case of submission of a physical duty-free list, the customs authority shall update and deduct the quantity of goods exported/imported accordingly.

In case of import of a duty-free combination or assembly line, the taxpayer shall follow customs procedures at the customs authority responsible for the area where the equipment is installed. When registering the customs declaration, the taxpayer shall provide details about the goods on the declaration. If details about the goods cannot be provided, the taxpayer shall prepare a list of imports according to Form No. 04 in Appendix VIIa hereof via the electronic data processing system or according to Form No. 15 in Appendix VII hereof and enclose it with the customs declaration. Within 15 days from the day on which the last shipment of the combination or assembly line is imported, the taxpayer shall register the duty-free list with the customs authority according to Form No. 05 in Appendix VIIa hereof via the electronic data processing system or according to Form No. 16 of Appendix VII hereof.

5. Procedures for exemption of import duties in special cases

a) In case a taxpayer is granted exemption of import duties on goods that are imported as fixed assets of the projects specified in Article 16 of the Law on Export and Import Duties but does not import the goods and is permitted to received duty-free goods that are imported by another organization or individual and transferred in Vietnam, the taxpayer shall register a new customs declaration of these goods and will be granted exemption of import duties, provided the transfer price is not inclusive of import duties. The transferor is not required to pay the exempted import duties.

b) Organizations and individuals that are entrusted to import or awarded contracts for import of goods to provide for the entities specified in Article 16 of the Law on Export and Import Duties will be granted exemption of import duties on these goods, provided the goods prices under the entrustment or successful bids are not inclusive of import duties.

c) Finance lease companies that import goods for lease by the entities specified in Article 14, Article 16, Article 17, Article 19, Article 25 of this Decree will be granted exemption of import duties provided the lease prices are not inclusive of import duties. In case the imports are not used for the duty-free purposes, the finance lease company shall register a new customs declaration and pay tax upon registration of the new customs declaration. Otherwise, the customs authority shall impose tax as per regulations.

d) In case of transfer of all or part of a project that is eligible for investment incentives to another organization or individual (the transferee), the project owner shall complete and send Form No. 06 in Appendix VIIa hereof or Form No. 17 in Appendix CII to the customs authority to which the duty-free list is registered before the transfer. Payment of exempted import duties on the goods transferred together with the project is not required. The transferee shall register a new customs declaration of the transferred goods and will be eligible for exemption of import duties if the following conditions are fully satisfied: At the time of transfer, the project is still eligible

for investment incentives; the transfer prices are not inclusive of import duties; the transferee is the owner of the transferred project according to the revised Certificate of Investment Registration or an equivalent document.

The customs authority that receives the duty-free list from the transferor shall remove it from the System or revoke the physical list and the monitoring sheet of the transferor; receives the duty-free list of the goods that are transferred but not completely imported.

In case the project is entirely transferred but the project owner has not completely imported the goods on the duty-free list, or the project is partially transferred but the project owner has not completely import the goods of the transferred part on the duty-free list, the transferee shall register the duty-free list of the goods that have not been completely imported of the transferred project or part of project.

In case the project is partially transferred but the project owner has not completely imported the goods of on the duty-free list of the untransferred part of the project, the project owner shall register such duty-free list of the goods.

dd) Regarding duty-free goods that are imported as fixed assets of an project which is eligible for investment incentives but are used for another project that is also eligible for investment incentives of the same owner, the project owner shall register a new customs declaration of the transferred duty-free goods if the following requirements are satisfied: prices of the transferred goods are not inclusive of import duties; the goods are suitable for the business lines and scale of the receiving project; regulations on fixed assets are complied with; the goods are included in the duty-free list of the receiving project which has been registered with the customs authority.

Quantity of received goods shall be deducted from the quotas on the duty-free list that has been registered with the customs authority. The owner of the transferring project may import an additional quantity of goods to replace the transferred goods. The owner of the transferring project shall register an additional duty-free list in accordance with regulations of Clause 5 Article 30 of this Decree.

e) Imports that have to be destroyed and have been destroyed in reality in the cases specified in Article 16 of the Law on Export and Import Duties (except for those specified in Clause 6 and Clause 7 of Article 16) are exempt from import duties. The destruction shall be carried out in accordance with relevant regulations of law and directly supervised by customs officials. Before destruction, the taxpayer shall submit a written notification to the customs authority specified in the reasons for destruction, names of the goods to be destroyed, time and location of destruction (01 original copy); the written permission for destruction issued by the line management authority or Department of Natural Resources and Environment (01 photocopy with the original copy presented for comparison).

Within 30 days from the destruction date, the taxpayer shall submit the following documents to the customs authority where the import declaration is registered: the written confirmation of destroyed goods which bears the full name, signature and seal of the enterprise whose goods are destroyed; full names and signatures of the supervising customs official and the persons assigned

by the enterprise's Director to supervise the destruction process; signatures of representatives of relevant authorities (if any) (01 photocopy with the original copy presented for comparison)."

15. Addition of Article 31a after Article 31:

“Article 31a. Notification and inspection of use of duty-free imports

1. Notification of use of duty-free imports

e) Notifying entities:

The project owner shall submit the notification of use of duty-free goods according to Form No.07 in Appendix VIIa hereof via the electronic data processing system or Form No. 18 in Appendix VII hereof to the customs authority that receives the duty-free list (in case registration of the duty-free list is mandatory).

b) Time and deadline for notification:

Every year within 90 days from the end of the fiscal year, the project owner shall submit the notification of use of duty-free goods in the fiscal year to the customs authority that receives the duty-free list until the entire project is shut down or all goods have been exported from Vietnam or when the duty-free imports are repurposed and sold domestically, or destroyed.

In the cases of import duty exemption specified in Article 15 and Article 23 of this Decree, the notification of use of duty-free goods shall be submitted annually for 05 years from the official inauguration date of the project. Within 30 days from the end of this 5-year period, the project owner shall register a new customs declaration, declare and pay tax on the duty-free raw materials, supplies and components that remain after 05 years.

2. In case of import of raw materials and supplies for fabrication according to Point a Clause 11, Point b Clause 15, Point a Clause 16 Article 16 of the Law on Export and Import Duties:

a) Within 30 days from the fabrication of equipment, component or part is complete, the project owner shall inform the customs authority that receives the duty-free list of the completion of fabrication according to Form No. 08 in Appendix VIIa hereof via the electronic data processing system or Form No. 19 in Appendix VII hereof. If the imported goods are not completely used, within 30 days from the completion date of fabrication, the project owner shall register a new customs declaration, declare and pay tax while doing so.

b) Within 60 days from the receipt of the project owner's notification mentioned in Point a of this Clause, the customs authority that receives the duty-free list shall carry out an inspection at the project owner's premises in order to determine the quantity of imports that are actually used for fabrication of equipment or parts thereof. In case the customs authority finds that these imports are not completely used or are repurposed without registering a new customs declaration, the customs authority shall impose tax as per regulations.

c) The project owner shall submit the notification of use of imports for fabrication prescribed in Clause 1 of this Article. From the year in which the fabrication is completed, the project owner shall submit notifications of use of fabricated products.

3. In case of duty-free import of a combination or assembly line which has to be divided into more than one shipment and quota deduction is not possible as prescribed in Clause 1 of this Article:

a) Within 30 days from the day on which the installation of the combination or assembly line is completed, the project owner shall submit a notification to the customs authority that receives the duty-free list according to Form No. 09 in Appendix VIIa hereof via the electronic data processing system or Form No. 20 in Appendix VII hereof. If the imports are not completely used, within 30 days from the completion of installation, the project owner shall register a new customs declaration, declare and pay tax while doing so.

b) Within 60 days from the receipt of the project owner's notification, the customs authority that receives the duty-free list shall carry out an inspection at the project owner's premises in order to determine the quantity of duty-free imports that are actually used for installation of the combination or assembly line. In case the customs authority finds that these imports are not completely used or are repurposed without registering a new customs declaration, the customs authority shall impose tax as per regulations.

c) The project owner shall submit the notification of use of imports for installation of the combination or assembly line prescribed in Clause 1 of this Article. From the year in which the installation is completed, the project owner shall submit notifications of use of the installed products.

4. Inspection of use of duty-free imports

A) The customs authority with which the duty-free list was registered shall carry out inspection of use of duty-free goods at the project owner's premises under risk management principles.

b) Inspections shall be carried out according to post-customs clearance inspection procedures."

16. Amendments to Clause 2 and Point c Clause 3 of Article 32:

"Article 32. Export and import duty reduction

2. An application for duty reduction consists of:

a) The written request form sent via the electronic data processing system of the customs authority according to Form No. 3 in Appendix VIIa or Form No. 08 in Appendix VII hereof: 01 original copy;

b) The insurance contract or insurance payout notice issued by the insurer (if any), or the insurer's confirmation if the insurance contract does not cover tax indemnification; the contract

or agreement on compensation issued by the shipping company in case the damage is caused by the shipping company (if any): 01 photocopy;

c) A confirmation of damage issued by a local authority e.g. confirmation of conflagration issued by the local fire department, confirmation issued by one of the following bodies: police authority of the commune, the People's Committee of the commune; management board of the industrial zone, export processing zone or economic zone; border checkpoint management board; port authority, airport authority where the force majeure event (natural disaster, epidemic, accident) occurs and causes damage to the imported materials or equipment: 01 original copy.

d) Confirmation of loss or damage of goods issued by an assessment service provider: 01 original copy.

3. Procedures and authority for granting duty reduction:

c) If the application for duty reduction is submitted after customs procedures are completed:

Within 30 days from the receipt of the satisfactory application, the Customs Department of the province shall compile a dossier, verify the information, inspect the accuracy and adequacy of the application and issue a duty reduction decision according to Form No. 12 in Appendix VII hereof or inform the taxpayer of their ineligibility for duty reduction and the duty payable. If the application is not satisfactory, the customs authority shall inform the taxpayer within 03 working days from the day on which the application is received.

If a physical inspection of goods that have been released from the customs controlled area is necessary basis for duty reduction, a decision on post-clearance inspection shall be delivered to the taxpayer and the tasks specified in this Point shall be carried out within 40 days from the day on which adequate documents are received.”

17. Amendments to Point a Clause 1, Point b Clause 2 of Article 34:

“Article 34. Refund of duties on re-exported imports

1. Paid import duties on the following imports that have to be re-exported shall be refunded and export duties thereon shall be cancelled:

a) Imports that have to be re-exported and returned to their owners; Imports that have to be exported to a foreign country or exported into a free trade zone for consumption therein.

The re-export of goods must be done by the initial importer or a person authorized by the initial importer;

2. An application for duty refund consists of:

b) The VAT invoice or sales invoice prescribed by regulations of law on invoices or commercial invoice: 01 photocopy.”

18. Amendments to Point a Clause 2 Article 33, Point a Clause 2 Article 34, Point a Clause 2 Article 35, Point a Clause 5 Article 36, Clause 3 Article 37:

“a) The written request for refund of export/import duty on exports/imports sent via the electronic data processing system of the customs authority according to Form No. 01 in Appendix VIIa, or the written request for refund of export/import duty according to Form No. 09 in Appendix VII hereof: 01 original copy.”

19. Addition of Article 37a after Article 37:

“Article 37a. Cancellation of export and import duties

1. Cases of duty cancellation:

a) Unpaid duties on goods that are eligible for duty refund prescribed in Article 33, Article 34, Article 35, Article 36 and Article 37 of this Decree shall be cancelled.

b) Duties on goods that are exempt from export and import duties prescribed in Article 33 and Article 34 of this Decree shall be cancelled.

2. Application for duty cancellation:

The written request for cancellation of export/import duty sent via the electronic data processing system of the customs authority according to Form No. 02 in Appendix VIIa, or the written request for cancellation of export/import duty according to Form No. 09a in Appendix VII hereof: 01 original copy. In the cases specified in Point a Clause 1 of this Article, the taxpayer shall submit the tax refund documents in addition to the written request for duty cancellation.

3. The application for duty cancellation shall be submitted to the customs authority where the export/import procedures are followed while following the customs procedures or after customs clearance has been granted.

4. Procedures for submission and processing of application for duty cancellation:

a) In the cases specified in Point a Clause 1 of this Article, the application for duty cancellation shall be submitted and processed as if an application for duty refund.

b) In the cases specified in Point b Clause 1 of this Article:

In case the first export/import declaration of the shipment does not have refundable duty and the taxpayer submits the application for duty cancellation while following customs procedures, the customs authority shall issue a decision on cancellation of export and import duties on the goods that are re-imported and re-exported before the deadline for completion of customs procedures if there is ample basis for determination that the imported goods are the previously exported goods, or the exported goods are the previously imported goods.

In case the first export/import declaration of the shipment does not have refundable duty and the taxpayer submits the application for duty cancellation while following customs procedures, the customs authority shall issue a decision on cancellation of export and import duties on the goods that are re-imported and re-exported before the deadline for completion of customs procedures if there is ample basis for determination that the imported goods are the previously exported goods, or the exported goods are the previously imported goods."

20. The following words and phrases are changes:

a) The word "or" in Point b Clause 3 Article 8 is replaced with "and";

b) The phrase "is determined when making a statement of raw materials, supplies and components imported for processing exports" in Point b Clause 2 Article 11 is replaced with "is determined when making a statement of raw materials, supplies and components imported for processing imports";

c) The phrase "Clause 2" in Point a Clause 4 and Point a Clause 6 of Article 30 is replaced with "Clause 3";

d) The phrase "01 certified true copy" in Clause 3 Article 7, Clause 3 Article 8, Clause 4 Article 19, Clause 3 Article 20, Clause 3 Article 26, Clause 3 Article 28, Clause 3 Article 30, Clause 2 Article 31, Clause 2 Article 32, Clause 2 Article 33, Clause 2 Article 34, Clause 2 Article 35, Clause 5 Article 36 is replaced with "01 photocopy";

dd) The phrase "for development of" in Point b Clause 4 Article 19 and "serving" in Point c Clause 4 Article 19 are replaced with "directly used for";

e) The phrase "Decision No. 219/2009/QD-TTg" in Clause 2 Article 38 is replaced with "Decision No. 119/2009/QD-TTg."

21. Amendments to Clause 2 and Clause 5 of Article 40:

"Article 40. Responsibility for implementation

2. The Ministry of Science and Technology shall promulgate the list or criteria for identification of duty-free imports or give confirmations under decisions of the Prime Minister of vehicles specialized for import prescribed Clause 11, Clause 15, Clause 16 Article 16 of the Law on Export and Import Duties and the imports prescribed in Clause 21 Article 16 of the Law on Export and Import Duties, except for those specified in Clause 1 of this Article.

5. The Ministry of Information and Communications shall provide for identification of imported raw materials, supplies and components that are eligible for import duty exemption when directly serving manufacture of information technology products, digital contents or software."

Article 2. Organization of implementation

1. This Decree comes into force from April 25, 2021.

2. Abolished and replaced regulations:

a) The following regulations of Decree No. 134/2016/ND-CP are annulled:

Point c Clause 3 Article 8, Point b Clause 4 Article 20, Clause 1 Article 29 of Decree No. 134/2016/ND-CP;

The following phrases: “(if duty exemption is granted before customs procedures are completed) or Form 03b in Appendix VII enclosed herewith (if duty exemption is applied for after customs procedures is completed)” in Point a Clause 3 of Article 20; “If duty exemption is applied for before customs procedures are completed” in Point a Clause 4 of Article 20; “and Clause 2 Article 8” in Clause 4 of Article 31; “If the goods are eligible for duty refund but duty has not been paid or is cancelled as prescribed in Article 19 of the Law on Export and Import Duties, documents and procedures are the same as those for duty refund“ in Clause 3 Article 33, Clause 3 Article 34, Clause 3 Article 35, Clause 6 Article 36, Clause 4 Article 37.

b) The following Circulars are annulled:

Circular No. 90/2011/TT-BTC dated June 20, 2011 on exemption of export duties on agarwood derived from planted aquilaria trees; Circular No. 201/2012/TT-BTC dated November 16, 2012 of the Ministry of Finance on exemption of import duties on unprocessed agricultural products invested in or farmed by Vietnamese entities in Cambodia when they are imported into Vietnam; Circular No. 81/2013/TT-BTC dated June 19, 2013 on amendments to Circular No. 201/2012/TT-BTC dated November 16, 2012; Circular No. 116/2013/TT-BTC dated August 20, 2013 on exemption of export duties on python skin obtained through breeding.

c) Article 5 of Circular No. 83/2016/TT-BTC dated June 17, 2016 providing guidelines for regulations on investment incentives of the Law on Investment No. 67/2014/QH13 and the Government’s Decree No. 118/2015/ND-CP elaborating the Law on Investment is annulled.

d) Appendix VII of Decree No. 134/2016/ND-CP is replaced with Appendix VII enclosed with this Decree.

dd) Appendix VIIa and Appendix VIII enclosed with this Decree are added.

3. Transition clauses on import duty incentives for entities eligible for import duty exemption specified in Clause 9 Article 1 of this Decree:

Projects of investment or farming of agriculture products on the list in Appendix VIII hereof that are eligible for tax incentives as prescribed by regulations of law on exports and import duties before the effective date of this Decree are still eligible for import duty exemption prescribed in Clause 9 Article 1 of this Decree for the remaining effective period of the Certificate of Overseas Investment issued by competent authorities.

In case the Cambodia's adjustment of its administrative divisions causes the name of bordering province of Cambodia on the Certificate of Overseas Investment of an enterprise eligible for duty exemption prescribed in Clause 9 Article 1 of this Decree to be excluded from the list of Cambodia's provinces bordering Vietnam, the enterprise is still eligible for import duty exemption as prescribed in Clause 9 Article 1 of this Decree for the remaining effective period of the Certificate of Overseas Investment issued by the competent authority.

4. Transition clauses on in-country exports and imports:

The duty rates on in-country exports and imports prescribed in Clause 1 Article 1 of this Decree shall be applied from the effective date of the Law on Export and Import Duties No. 107/2016/QH13.

5. Transition clauses on duty exemption procedures:

a) In case a duty-free list is approved by the Prime Minister in accordance with Article 29 of Decree No. 134/2016/ND-CP before the effective date of this Decree, the taxpayer may keep using such duty-free list until the goods specified in therein are completely imported;

b) Unexpired quota books issued by competent authorities before the effective date of this Decree may be used until their expiration dates or increase/decrease in the payroll (of organizations).

6. Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of the People's Committees of provinces, relevant organizations and individuals are responsible for the implementation of this Decree./.

**ON BEHALF OF THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Xuan Phuc

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