

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 57/2020/ND-CP

Hanoi, May 25, 2020

DECREE

AMENDMENTS AND SUPPLEMENTS TO SEVERAL ARTICLES OF GOVERNMENT'S DECREE NO. 122/2016/ND-CP DATED SEPTEMBER 1, 2016 ON EXPORT AND PREFERENTIAL IMPORT TARIFF SCHEDULES, LISTS OF PRODUCTS, ABSOLUTE, MIXED AND OUT-OF-QUOTA IMPORT DUTY RATES, AND TO DECREE NO. 125/2017/ND-CP DATED NOVEMBER 16, 2017, AMENDING AND SUPPLEMENTING SEVERAL ARTICLES OF DECREE NO. 122/2016/ND-CP

Pursuant to the Law on Government Organization dated June 19, 2015;

Pursuant to the Law on Export and Import Duties dated April 6, 2016;

Pursuant to the Law on Tax Administration dated November 29, 2006 and the Law on Amendments and Supplements to certain Articles of the Law on Tax Administration dated November 20, 2012;

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

Pursuant to the National Assembly's Resolution No. 71/2006/QH11 dated November 29, 2006, ratifying the Protocol on accession to the Agreement establishing the World Trade Organization of the Socialist Republic of Vietnam;

Upon the request of the Minister of Finance;

The Government hereby promulgates the Decree on amendments and supplements to several Articles of the Government's Decree No. 122/2016/ND-CP dated September 1, 2016 on export and preferential import tariff schedules, lists of products, absolute, mixed and out-of-quota import duty rates, and to the Decree No. 125/2017/ND-CP dated November 16, 2017, amending and supplementing several Articles of the Decree No. 122/2016/ND-CP.

Article 1. Amendments and supplements to certain articles of the Decree No. 122/2016/ND-CP

1. Clause 1 of Article 5 shall be amended and supplemented as follows:

“Article 5. Preferential import tariff schedule of taxable products on the List

Preferential import tariff schedule of taxable products on the List given in Appendix II, including:

1. Section I: Preferential import tariff rate on products in 97 chapters of the List of Vietnam's exports and imports. This section is divided into Parts, Chapters, and Explanatory Notes for Parts and Chapters; Import Tariff Schedule comprising the description of products (e.g. headings and subheadings), HS codes (8 digit characters) adopted according to the List of Vietnam's exports and imports and preferential import duty rates applied to taxable products.

In case where the List of Vietnam's exports and imports is amended or supplemented, customs declarants must use descriptions and HS codes according to the amended List of exports and imports, as well as duty rates on products with amended HS codes."

2. Article 7b shall be added as follows:

“Article 7b. Preferential import duty rates applied to materials, supplies and accessories used for manufacturing, processing (assembling) supporting industrial products prioritized for development of the automobile manufacturing and assembly industry during the period of 2020 – 2024 (hereinafter referred to as tax incentive program for automobile supporting industry)

1. The Program prescribes that 0% preferential import tax rates will be levied on input or raw materials and accessories that have not yet been domestically made to manufacture, process (assemble) supporting products given priority for development of the automobile manufacturing and assembly industry (hereinafter referred to as automobile supporting products).

a) At the time of registration of their declaration forms, customs declarants shall declare and calculate duties levied on imported raw materials, supplies and accessories at normal import duty rates or at preferential import duty rates or at specially preferential import duty rates in accordance with the provisions while the 0% duty rate has not yet been applied.

b) Applying 0% preferential import duty rate to raw materials, supplies and accessories as prescribed in the Incentive Program for the automobile supporting industry shall be subject to Clause 2, 3, 4, 5, 6, 7 and 8 of this Article.

2. Subjects of application

a) Automobile parts and accessories manufacturing and processing (assembling) enterprises;

b) Automobile manufacturing and assembling enterprises employing themselves to manufacture and process (assemble) automobile accessories and spare parts.

3. Eligibility requirements

a) Automobile accessories and spare parts manufacturing and processing (assembling) enterprises must meet the following requirements:

a.1) They have an agreement on purchase and sale of automobile supporting products with automobile manufacturing and assembling enterprises holding certificates of eligibility for automobile manufacture and assembly issued by the Ministry of Industry and Trade;

a.2) Their investment certificates or investment registration certificates or enterprise registration certificates or business registration certificates clearly state their project's objectives or business lines, including the manufacture of spare parts and components of automobiles and other motor vehicles.

a.3) They have the right to own or use manufacturing and processing (assembling) facilities, machinery and equipment at manufacturing and processing (assembling) workshops within the territory of Vietnam.

b) Automobile manufacturing and assembling enterprises employing themselves to manufacture and process (assemble) automobile accessories and spare parts must have Certificates of eligibility for automobile manufacture and assembly, issued by the Ministry of Industry and Trade.

c) Imported raw or input materials, supplies and accessories must meet the following requirements:

c.1) Imported raw or input materials, supplies and components or accessories (including raw or input materials, supplies and components or accessories imported from the effective date of this Decree which are still in stock to be carried forward from the previous periods of application of preferential duty rates for manufacture or processing (assembling) of automobile supporting products in the following periods of application of preferential duty rates; excluding raw or input materials, supplies and components or accessories which are put to use, but broken or defective) are used for the manufacture and processing (assembly) of automobile supporting products named in the List of supporting industrial products given priority for development for the automobile manufacturing and assembly industry specified in Section IV of the Appendix to the Government's Decree No. 111/2015/ND-CP dated November 3, 2015 on development of the supporting industry and in amendment and supplementation documents (if any). In case where an automobile product is merely assembled with simple details, such as screws, bolts, nuts, rivets, and does not undergo any finished product manufacturing or processing stage, it shall not be entitled to the tax incentive program for the automobile supporting industry.

c.2) Raw or input materials, supplies, components or accessories classified as those that cannot be domestically produced are directly imported by or imported under authorization given to enterprises referred to in clause 2. The determination of raw or input materials, supplies and components or accessories that have not yet been produced domestically shall be subject to the Ministry of Planning and Investment's regulations on the list of raw or input materials, supplies and semi-finished products that may be domestically produced.

If any enterprise prescribed in clause 2 of this Article meets regulations laid down in point a, b and c of this clause and clause 4, 5, 6, 7 and 8 of this Article, they shall be entitled to 0% preferential import duty rate applied to raw or input materials, supplies and components or

accessories imported for manufacturing, processing (assembling) automobile supporting products within the period of consideration of grant of tax incentive.

4. Period of consideration of grant of tax incentive

The maximum period of consideration of grant of tax incentive shall be 06 months from January 1 to June 30, or from July 1 to December 31 each year.

5. Documentation and application requirements for participation in the tax incentive program for the automobile supporting industry

a) Documentation and application requirements for participation in the tax incentive program for the automobile supporting industry, including:

a.1) Registration form for participation in the tax incentive program for the automobile supporting industry by using the Form No. 08 of Appendix II hereto: 01 primary copy;

a.2) Investment certificate or investment registration certificate or enterprise registration certificate or business registration certificate (applicable to the cases specified at point a of clause 2 of this Article): 01 certified true copy;

a.3) Written notice of manufacturing and processing (assembling) facilities; machinery and equipment installed at manufacturing and processing (assembling) facilities, sent to customs authorities according to Form No. 09 of Appendix II hereto (applicable to the cases specified at point a of clause 2 of this Article): 01 primary copy. Land use right certificates granted by competent state agencies to enterprises or land use right certificates granted by competent agencies to land owners, land, premises or workshop rental or borrowing agreements if the applicant enterprise rents or borrows them to build their manufacturing facilities: 01 certified true copy.

a.4) Certificate of eligibility for automobile manufacturing and assembly granted by the Ministry of Industry and Trade (applicable to the cases specified at point b of clause 2 of this Article): 01 certified true copy.

b) Procedures for registration of participation in the tax incentive program for the automobile supporting industry

Applicant enterprises submit applications for registration for the tax incentive program for the automobile supporting industry directly or via the electronic data systems of customs authorities or by post to customs authorities at places where enterprises are headquartered, or their automobile manufacturing, processing (assembly) facilities are located to register their participation right after the effective date of this Decree or any time of the year. The participation in the tax incentive program for the automobile supporting industry shall start from the submission date of the registration form.

6. Customs declaration making procedures

At the time of registration of the customs declaration, the customs declarant enters "A43 - Import of goods eligible for the tax incentive program" at "Type/Activity code"; enters "#&7b" at "Enterprise's internal control number"; enters "HS code" according to the List of Vietnam's Imports and Exports with respect to raw or input materials, supplies and components or accessories qualified for the Tax Incentive Program for the automobile supporting industry.

7. Inspection of automobile manufacturing and processing (assembling) facilities of enterprises participating in the tax incentive program for the automobile supporting industry.

After receipt of the registration application for participation in the tax incentive program for the automobile supporting industry, the customs authority shall carry out the inspection of the manufacturing and processing (assembling) facilities of the applicant enterprise; conduct the inspection of machinery and equipment at automobile manufacturing and processing (assembling) facilities that the enterprise has notified to the customs authority. The customs authority shall issue a decision on the inspection of these manufacturing facilities using the Form No. 09a of Appendix II enclosed herewith and send it via the electronic data system of the customs authority or by the registered mail or fax to the applicant customs declarant within 03 working days from the signature date. The inspection shall commence 5 business days after the date of issuance of the inspection decision. The maximum duration of each inspection must be 5 business days. Inspection's objectives:

a) Conducting the physical inspection of automobile manufacturing and processing facilities to verify information that enterprises have notified to customs authorities, investment certificates or investment registration certificates or enterprise registration certificates or business registration certificates, land use right certificates granted by competent state authorities to enterprises or land use right certificates granted by competent state authorities to land owners and land, premises or workshop rental or borrowing agreements in case enterprises leases or borrows them to build manufacturing and processing facilities.

b) Conducting the physical inspection of machinery and equipment at the manufacturing or processing facility to check conformance to customs documentation on imported goods, invoices, evidence, machinery and equipment rental and borrowing agreements (in case of renting and borrowing of machinery and equipment); conducting the inspection of the manufacturing and assembling processes, scale, manpower condition, machinery and equipment condition to determine whether the applicant enterprise's manufacturing capacity is conformable to products registered for participation in the tax incentive program for the automobile supporting industry.

After completion of the physical inspection, the customs authority must make a report on results of the physical inspection of the automobile manufacturing and assembling facility by using the Form No. 09b of the Appendix II hereto.

Within 05 working days from the day on which the inspection report is signed, the customs authority shall notify the inspected enterprise in writing whether or not they meet manufacturing and processing (assembling) facility, machinery or equipment requirements specified at point a.3 of clause 3 of this Article by using the Form No. 09c of Appendix II hereto.

During the period of participation in the tax incentive program for the automobile supporting industry, if the participant enterprise has any change in their address of manufacturing and processing facility, their rights to own or use machinery and equipment at the manufacturing and processing (assembling) facility, they must notify such change in writing to their supervisory customs authority within 5 working days after the change-making date. After receiving the notification of change from the enterprise or when detecting any suspicious sign that the enterprise changes information about their manufacturing and processing facility, machinery and equipment without prior notice to the supervisory customs authority, or according to risk management principles, the customs authority shall carry out the inspection of the manufacturing and processing (assembling) facility, or the inspection of machinery and equipment installed at the manufacturing and processing (assembling) facility.

8. Application and documentation requirements and procedures for application of 0% preferential tax rate

a) Documentation requirements, including:

a.1) Automobile parts and accessories manufacturing and processing (assembling) enterprises:

a.1.1) Request form for grant of 0% preferential tax rate under the tax incentive program for the automobile supporting industry by using the Form No. 10a of Appendix II hereto: 01 primary copy;

a.1.2) Investment certificate or investment registration certificate or enterprise registration certificate or business registration certificate (except when the applicant enterprise already submits the registration form for participation in the tax incentive program for the automobile supporting industry): 01 certified true copy;

a.1.3) Agreement on purchase and sale of automobile supporting products with the automobile manufacturing and assembling enterprise holding the certificate of eligibility for automobile manufacturing and assembly issued by the Ministry of Industry and Trade: 01 primary copy;

a.1.4) Processes for manufacturing and processing (assembly) of automobile supporting products (enclosing interpretation or explanatory notes): 01 primary copy;

a.1.5) Statement of declarations and import duty payment amounts with respect to raw or input materials, supplies, components or accessories used for manufacturing, processing (assembling) of automobile supporting products eligible for participation in the tax incentive program for the automobile supporting industry by using the Form No. 10 of Appendix II hereto: 01 primary copy;

a.1.6) Report on use of raw or input materials, supplies, components or accessories used for manufacturing, processing (assembling) of automobile supporting products already registered for participation in the tax incentive program for the automobile supporting industry by using the Form No. 11 of Appendix II hereto: 01 primary copy.

a.1.7) Statement of value-added tax invoices corresponding to the quantity of automobile supporting products already sold under sale agreements by using the Form No. 12 of Appendix II hereto: 01 primary copy.

a.1.8) Accounting vouchers or records proving the quantity of imported raw or input materials, supplies, components or accessories already used for manufacturing and processing (assembling) of automobile supporting products: 01 photocopy;

a.2) Automobile manufacturing or processing (assembling) enterprises employing themselves to manufacture and process (assemble) automobile components, accessories or spare parts

a.2.1) Request form for grant of 0% preferential tax rate under the tax incentive program for the automobile supporting industry by using the Form No. 10a of Appendix II hereto: 01 primary copy;

a.2.2) Processes for manufacturing and processing (assembly) of automobile supporting products (enclosing interpretation or explanatory notes): 01 primary copy;

a.2.3) Statement of declarations and import duty payment amounts with respect to raw or input materials, supplies, components or accessories used for manufacturing and processing (assembling) of automobile supporting products, which is made by using the Form No. 10 of Appendix II hereto: 01 primary copy;

a.2.4) Report on use of raw or input materials, supplies, components or accessories used for manufacturing and processing (assembling) of automobile supporting products, which is made by using the Form No. 11 of Appendix II hereto: 01 primary copy.

a.2.5) Statement of value-added tax invoices corresponding to the quantity of automobile supporting products already sold to the automobile manufacturing and assembling enterprise holding the certificate of eligibility for automobile manufacturing and assembling, issued by the Ministry of Industry and Trade using the Form No. 12 of Appendix II hereto: 01 primary copy.

a.2.6) Report on use of automobile supporting products already manufactured or processed (assembled), which is made by using the Form No. 13 of Appendix II hereto: 01 primary copy.

a.2.7) Certificate of eligibility for automobile manufacturing and assembly granted by the Ministry of Industry and Trade (except in case of already being submitted when registering participation in the tax incentive program): 01 certified true copy;

a.2.8) Accounting vouchers or records proving the quantity of imported raw or input materials, supplies, components or accessories already used for manufacturing and processing (assembling) of automobile supporting products: 01 photocopy.

b) Procedures for application of 0% preferential tax rate

b.1) Not later than 60 days after June 30 or December 31 every year, the applicant enterprise sends the required application documents specified at point a of this clause to the customs authority that is authorized to receive application documents for registration for participation in the tax incentive program for the automobile supporting industry. In case of submitting application documents after 60 days, the customs authority receives and verifies submitted documents, and imposes any administrative fine regulated by the Government.

b.2) Based on the application for grant of 0% preferential tax rate and the results of the inspection of the manufacturing and processing (assembling) facility, machinery and equipment of the applicant enterprise, the receiving customs authority checks whether the enterprise is eligible for the tax incentive program and their conformance to requirements for eligibility for the tax incentive program for the automobile supporting industry, and may choose to take the following measures:

b.2.1) In case where submitted application is not sufficient according to regulations in force, the customs authority can request the applicant enterprise in writing to make any necessary amendment or supplementation. In case where there is any doubt about the accuracy of the submitted application, the customs authority shall conduct inspections at the office of the customs authority or the taxpayer in accordance with tax administration law.

b.2.2) In case of meeting all of the eligibility requirements for the tax incentive program for the automobile supporting industry, the customs authority shall issue its decision to refund and make a refund order for the overpaid duty amount to the applicant enterprise in accordance with the Law on Tax Administration and other instructional documents thereof. On the customs authority's order of refund of the state budget receipt issued by, the State Treasury shall refund the overpaid import duty amount to the applicant enterprise. Such refund of the overpaid duty amount shall be funded by the central government's state budget revenues from customs tariff.

b.2.3) In case of failure to meet all of the eligibility requirements for the tax incentive program for the automobile supporting industry, the customs authority shall send its written reply to the applicant enterprise.

Article 2. Amendments and supplements to certain articles of the Decree No. 125/2017/ND-CP

1. Clause 1 of Article 1 shall be amended and supplemented as follows:

“Article 3. Issuance of export tariff schedule, preferential import tariff schedule relative to the list of dutiable goods, list of products, absolute, mixed and out-of-quota import duty rates

1. Appendix I – Export tariff schedule relative to the list of dutiable goods.

2. Appendix II - Preferential import tariff schedule relative to the list of dutiable goods.

3. Appendix III – List of products and absolute, mixed tariff rates applied to second-hand motor vehicles having the maximum capacity of 15 seats (including driver).

4. Appendix IV – List of products and out-of-quota import duty rates applied to products subject to tariff quotas.”

2. Clause 2 of Article 1 shall be amended and supplemented as follows:

“Article 4. Export tariff schedule relative to the List of dutiable goods

1. The export tariff schedule relative to the list of dutiable products specified in Appendix I to this Decree includes HS codes, commodity description and export duty rates applied to each heading and dutiable exported commodities. In case where any exported good is not named in the export tariff schedule, the customs declarant shall enter HS code of the exported good corresponding to the 8-digit HS codes of commodities according to the preferential import tariff schedule specified in Section I of Appendix II to this Decree, and shall not need to enter duty rates in their export declaration.

In case where any good belongs to the heading No. 211 in the export tariff schedule, when carrying out the customs procedures, the customs declarant shall enter HS codes of the exported goods corresponding to the 8-digit HS codes of these goods according to the preferential import tariff schedule specified in Section I of Appendix II to this Decree, and shall not need to enter 5% export duty rates. Goods belonging to the heading No. 211 are those meeting both of the following requirements:

a) 1st requirement: Supplies, raw or input materials, semi-finished products (collectively referred to as goods) do not belong to the headings from No. 01 to No. 210 in the export tariff schedule.

b) 2nd requirement: They are goods which are made directly from raw materials that are mainly natural resources or minerals and of which the aggregate value of such natural resources plus energy costs accounts for at least 51% of their production cost. The determination of the aggregate value of natural resources and minerals plus energy costs accounting for at least 51% of their production cost shall be subject to regulations laid down in the Government’s Decree No. 100/2016/ND-CP dated July 1, 2016, detailing and guiding the implementation of a number of articles of the Law on Amendments and Supplements to several Articles of the Law on Value-Added Tax, the Law on Special Consumption Tax and the Law on Tax Administration and the Government’s Decree No. 146 / 2017 / ND-CP dated December 15, 2017, amending and supplementing a number of articles of the Decree No. 100/2016/ND-CP.

Exported goods that are exceptions specified in clause 1 of Article 1 in the Decree No. 146/2017/ND-CP dated December 15, 2017 do not belong to the heading No. 211 of the export tariff schedule annexed to this Decree.”

3. Clause 6 of Article 1 shall be amended and supplemented as follows:

“Article 7a. Preferential import duty rates applied to imported automobile components or accessories under the tax incentive program for the manufacturing and assembly of motor vehicles (tax incentive program)

1. Regulations on 0% preferential tariff rate applied to imported vehicle components listed in the 98.49 Heading of Section II of Chapter 98 of Appendix II hereto will become operative from November 16, 2017 to December 31, 2022.

a) At the time of registration of their declaration forms, if customs declarants shall declare and calculate duties levied on goods imported at ordinary import duty rates or at preferential import duty rates or at specially preferential import duty rates in accordance with the provisions, the 0% import duty rate applied to goods belonging to the 98.49 heading will have yet to be in use.

b) Applying 0% preferential import duty rate to accessories or components belonging to the 98.49 heading shall be subject to Clause 2, 3, 4, 5, 6 and 7 of this Article.

2. Subjects of application

Enterprises holding certificates of eligibility for automobile manufacturing and assembly issued by the Ministry of Industry and Trade.

3. Eligibility requirements

3.1. Automobile accessories or components must meet the following requirements:

a) Imported automobile components or accessories are listed in the heading No. 98.49 and classified as those which have not yet been manufactured domestically, and used for manufacturing and assembling motor vehicles within the period of consideration of grant of tax incentive (including those in stock from the previous period which are used for manufacturing and assembling of finished vehicles in the succeeding period). The determination of components or accessories that have not yet been produced domestically shall be subject to the Ministry of Planning and Investment's regulations on the list of raw or input materials, supplies and semi-finished products that may be domestically produced.

b) Components or accessories (e.g. details, detail sets and parts) are finished but not assembled products, or are not yet finished products which, however, have basic characteristics of the finished products to the discrete extent which is at least equal to the discrete extent of automobile components or accessories according to the regulations of the Ministry of Science and Technology on the method of determination of the domestic content rate of automobiles, and the provisions laid down at point b.5.2 of clause 3.2 of Section I in the Chapter 98, and Section II of Appendix II to this Decree.

c) Imported automobile components or accessories are directly imported or imported in trust or under authorization by automobile manufacturing and assembling enterprises.

3.2. For enterprises manufacturing and assembling electric, fuel-cell, hybrid, fully biofuel, and natural gas vehicles, enterprises shall not have to register vehicle models when participating in the Program.

a) If enterprises that are not subject to the minimum output requirement at the first participation registration period and the next consecutive period of consideration of grant of tax incentive meet the provisions of clause 2, clause 3.1, clause 4, clause 5, clause 6 and clause 7 of this Article, the 0% duty rate shall be applied to all of the imported components used for manufacturing and assembly of their products for which they have registered to participate in the Tax Incentive Program when these products leave the factory.

b) In the following periods of consideration of grant of tax incentive, if enterprises subject to the minimum output requirement under the provisions of point b.12.2 of clause 3.2 of section I of Chapter 98 in Appendix II hereto meet regulations laid down in clause 2, clause 3.1, clause 4, clause 5, clause 6 and clause 7 of this Article, the 0% duty rate shall be applied to all of the imported components used for manufacturing and assembly of products of which the prescribed requirement concerning the output are met by these enterprises when these products leave the factory.

3.3. Enterprises manufacturing and assembling gas and diesel vehicles:

a) Emission standards:

Automobiles and vehicles are manufactured or assembled to meet level 4 and level 5 emission standards for the period from 2018 to the end of 2021; level 5 or higher emission standards for the period from 2022 onwards.

b) Vehicle make:

Enterprises manufacturing and assembling gas and diesel vehicles may register 01 (one) or more vehicle makes once participating in the tax incentive program. During the validity period of the tax incentive program, they may register any change or addition of vehicle makes or quantities of vehicles by registered makes. The production output of a vehicle make after such change or addition shall be added to the minimum general production output as a basis for consideration of tax incentives, but must still meet the minimum specific output requirement imposed in each period of consideration of grant of tax incentive. Makes of vehicles belonging to different headings of vehicles shall be regulated as follows:

b.1) Vehicles with the maximum capacity of 09 seats and the maximum cylinder capacity of 2,500cc that are classified into the same heading No. 87.03 are those meeting all of the following 4 criteria: same engine criteria; same criteria for bodywork (or chassis); cylinder capacity of 2,500 cc or less; fuel consumption of under 7.5 liters / 100 km. Fuel consumption criterion of below 7.5 liters / 100 km is based on the fuel consumption per a combined cycle specified in the fuel consumption certificate issued by the Vietnam Register;

b.2) Mini-buses (including passenger-carrying ones with the capacity ranging from 10 to 19 seats that are classified into the heading No. 87.02) and buses/passenger vehicles (including passenger-carrying ones with the minimum capacity of 20 seats that are classified into the heading No. 87.02) are those vehicles having the same engine and chassis criteria;

b.3) Vehicles classified into the truck heading (including motorized vehicles used for carrying cargo that belong to the heading No.87.04, and specialized motorized vehicles that belong to the heading No. 87.05) are those vehicles having the same engine criteria and cabin criteria.

Engine criteria for a make of vehicle are determined on the basis of the cylinder capacity or type or engine capacity stated in the certificate of technical quality, safety and environment protection for manufactured or assembled vehicles issued by the Vietnam Register. Body (or chassis), frame and cabin criteria are determined on the basis of basic technical specifications stated in technical design interpretations with “tested” marks granted by the Vietnam Register.

c) Minimum general output requirement (referring to the manufacturing and assembling output requirement applied to vehicles of each vehicle heading) and minimum specific output requirement (referring to the manufacturing and assembling output requirement applied to each participating vehicle).

Enterprises meeting the minimum general output requirement or the minimum specific output requirement shall fall into the following cases:

c.1) If they meet the minimum general output requirement imposed on each of their vehicle headings and the minimum specific output requirement imposed on at least one vehicle make in each 6-month period of consideration of grant of tax incentive specified under the provisions of point b.12.2 of clause 3.2 of section I of Chapter 98 in Appendix II hereto, and meet regulations laid down in clause 2, clause 3.1, clause 4, clause 5, clause 6 and clause 7 of this Article, the 0% duty rate shall be applied to all of the imported components used for manufacturing and assembly of products of which the prescribed requirement concerning the output are met by these enterprises when these products leave the factory within that period.

In case of manufacturing and assembling gas and diesel, electric, fuel-cell, hybrid, fully biofuel, and natural gas vehicles, when determining the minimum general output of the heading of vehicles using gas and diesel fuels, they may add the output of electric, fuel-cell, hybrid, fully biofuel and natural gas vehicles manufactured or assembled within the period of consideration of grant of tax incentive to the minimum general output of the same heading of vehicles using gas and diesel fuels during the process of consideration of grant of tax incentive.

During the first period of consideration of grant of tax incentive to enterprises manufacturing and/or assembling automobiles or vehicles using gas and diesel fuels which is less than 06 months, if these enterprises reach the actual manufacturing and assembling output of vehicles in the same heading at least equal to the multiplication of one month’s average of the minimum general outputs by the time length (number of months) of their participation in the tax incentive program within a period of consideration of grant of tax incentive, and achieve the actual manufacturing and assembling output of registered vehicles at least equal to the multiplication of

one month's average of the minimum specific outputs by the time length (number of months) of their participation in the tax incentive program within a period of consideration of grant of tax incentive and, at the same time, meeting the minimum general and specific output requirements for the next 6-month period of consideration of grant of tax incentive, the number of their automobile components or accessories used for manufacturing and assembling their vehicles in that first period shall be eligible for 0% duty rate provided that they meet the requirements specified in clause 2 and clause 3.1, points a and b of clause 3.3, clause 4, clause 5, clause 6 and clause 7 of this Article. If the duration of participation in the tax incentive program in the first month is at least 15 days, such duration shall be rounded to 1 month. In case where the number of days of participation in the tax incentive program in the first month is less than 15 days, that month shall be skipped.

c.2) If they have the actual manufacturing and assembling output of vehicles of the 01 (one) make of vehicles with the maximum capacity of 09 seats registered within a period of consideration of grant of tax incentive which is 1.3 times more than the minimum specific output of vehicles belonging to the heading of vehicles with the maximum capacity of 09 seats prescribed in point b.12.2 of clause 3.2 of section I of Chapter 98 in Appendix II hereto, and meet regulations laid down in clause 2, clause 3.1, point a and b of clause 3.3, clause 4, clause 5, clause 6 and clause 7 of this Article, they shall be entitled to the 0% duty rate applied to their imported components already used for manufacturing and assembly of these registered vehicles of that make leaving the factory within that period.

c.3) If they have total actual manufacturing and assembling output of vehicles of the 02 (two) makes of vehicles with the maximum capacity of 09 seats registered within a period of consideration of grant of tax incentive which is 1.5 times more than the minimum specific output of vehicles belonging to the heading of vehicles with the maximum capacity of 09 seats prescribed in point b.12.2 of clause 3.2 of section I of Chapter 98 in Appendix II hereto, and meet regulations laid down in clause 2, clause 3.1, point a and b of clause 3.3, clause 4, clause 5, clause 6 and clause 7 of this Article, they shall be entitled to the 0% duty rate applied to their imported components already used for manufacturing and assembly of registered vehicles of these two makes that leave the factory within that period.

c.4) If they register participation in the tax incentive program for 02 (two) headings of vehicles or more, have total actual manufacturing and assembling output of vehicles of all these makes of vehicles registered within a period of consideration of grant of tax incentive which is at least equal to total minimum general output of vehicles belonging to respective headings of vehicles according to point b.12.2 of clause 3.2 of section I of Chapter 98 in Appendix II hereto, and meet regulations laid down in clause 2, clause 3.1, point a and b of clause 3.3, clause 4, clause 5, clause 6 and clause 7 of this Article, they shall be entitled to the 0% duty rate applied to all components imported for use in the manufacturing and assembly of vehicles belonging to registered headings of vehicles that leave the factory within that period.

4. Period of consideration of grant of tax incentive

The 6-month period of consideration of grant of tax incentive shall start on January 1 and end on June 30, or start on July 1 to December 31, each year.

5. Documentation and application requirements for participation in the tax incentive program

a) Documentation requirements, including:

a.1) Registration form for participation in the tax incentive program for automobile components or accessories, made by using the Form No. 05 of Appendix II hereto: 01 primary copy;

a.2) Certificate of eligibility for automobile manufacturing and assembly: 01 certified true copy.

b) Registration procedures: Applicant enterprises submit applications for registration for the tax incentive program for the automobile supporting industry directly or via the electronic data systems or by post to customs authorities at places where enterprises are headquartered, or their automobile manufacturing, processing (assembly) factories are located to register their participation right after the effective date of this Decree or any time of the year within the validity period of the program. The participation in the tax incentive program shall start from the submission date of the registration form.

6. Customs declaration making procedures:

The customs declarant enters "A43 - Import of goods eligible for the tax incentive program" at "Type/Activity code" for imported automobile components or accessories with HS codes that belong to the No. 98.49 heading for manufacturing and assembly of vehicles in the heading registered for participation in the tax incentive program; enters "#&7a" at "Enterprise's internal control number".

7. Application and documentation requirements and procedures for eligibility of vehicles in the No. 98.49 heading for 0% preferential tax rate

a) Documentation requirements, including:

a.1) Request form for application of 0% preferential tax rate to products in the No.98.49 heading, made by using the Form No. 06a of Appendix II hereto: 01 primary copy;

a.2) Report on use of imported automobile components or accessories used for manufacturing and processing (assembling) of automobiles or vehicles leaving the factory within the period of consideration of grant of tax incentive, which is made by using the Form No. 06 of Appendix II hereto: 01 primary copy.

a.3) Statement of declarations and import duty payment amounts, which is made by using the Form No. 07 of Appendix II hereto: 01 primary copy;

a.4) Accounting vouchers or records proving the quantity of imported components or accessories already used for manufacturing and assembling of automobiles in the headings within the period of consideration of grant of tax incentive: 01 photocopy;

a.5) Pre-shipment check cards, made according to the form issued by the Vietnam Register: a copy with the exporter's seal affixed thereon (the number of copies corresponding to the number of vehicles manufactured and assembled within the period of consideration of grant of tax incentive);

a.6) Certificate of technical quality, safety, and environment protection of manufactured and assembled automobiles: certified true copy, or copy and the original thereof for verification purposes (the number of copies corresponding to the number of types of manufactured and assembled vehicles);

a.7) Explanatory notes on the technical design of automobile with the "tested" mark of the Vietnam Register: certified copy, or copy and the original thereof for checking purposes (number of copies corresponding to the types of manufactured and assembled vehicles).

b) Procedures for application of tax rates applied to products in the No. 98.49 heading:

b.1) Not later than 60 days after June 30 or December 31, the applicant enterprise sends the required application documents specified at point a of this clause to the customs authority that is authorized to receive application documents for registration for participation in the tax incentive program. In case of submitting application documents after 60 days, the customs authority receives and verifies submitted documents, and imposes any administrative fine regulated by the Government.

In case where the applicant enterprise has the period of consideration of grant of tax incentive which is less than 06 months, the enterprise shall submit application documents specified at point a of this clause at the same time as submission of application for the 0% duty rate of the next period of consideration of grant of tax incentive.

b.2) Based on the application from the applicant enterprise, the receiving customs authority checks whether the enterprise is eligible for the tax incentive program and their conformance to requirements for eligibility for the tax incentive program specified in clause 2 and 3 of this Article. They will check the followings:

b.2.1) Quantity of vehicles determined based on the pre-shipment check cards issued within the period of consideration of grant of tax incentive.

b.2.2) Make or type of vehicles registered for participation in the tax incentive program, based on the certificate of technical quality, safety and environment protection for manufactured or assembled vehicles, issued by the Vietnam Register.

b.2.3) The industrial consumption of imported automobile components or accessories (excluding those used but damaged or defective). This must match the quantity of actually manufactured and assembled vehicles with pre-shipment check cards within the period of consideration of grant of tax incentive and based on the report on use of automobile components or accessories eligible for preferential import duty, statement of customs declarations and import duty payment amounts according to each import customs declaration.

b.3) Based on the results of documentary inspection, the inspecting customs authority shall take the following actions:

b.3.1) In case where submitted application is not sufficient, they can request the applicant enterprise in writing to make any necessary amendment or supplementation. In case where there is any doubt about the accuracy of the submitted application, they shall conduct inspections at their office or the taxpayer's office in accordance with tax administration law.

b.3.2) If all of the eligibility requirements for the tax incentive program are met, and the applicant enterprise has paid taxes on imported automobile components or accessories more than taxes to be paid at the duty rate applied to the No.98.49 heading, the customs authority shall issue its decision to refund and make a refund order for the overpaid tax amount to the applicant enterprise in accordance with the Law on Tax Administration and other instructional documents thereof. On the customs authority's order of refund of the state budget receipt issued by, the State Treasury shall refund the overpaid import duty amount to the applicant enterprise. Such refund of the overpaid duty amount shall be funded by the central government's state budget revenues from customs tariff.

b.3.3) In case of failure to meet all of the eligibility requirements for the tax incentive program, the customs authority shall send its written reply to the applicant enterprise.”

Article 3. Implementation responsibilities

1. The Ministry of Finance shall conduct the inspection, supervision, price consultation and trade fraud combats according to regulations on goods taxed at high import duty rates and goods with high risk of customs valuation.

2. The Ministry of Planning and Investment shall issue the list of domestically manufactured goods; review and update the list to ensure it adapts to practical conditions.

3. The Ministry of Science and Technology shall assume the prime responsibility for, and coordinate with the Ministry of Industry and Trade, the Ministry of Transport, the Ministry of Planning and Investment and relevant agencies in, reviewing, amending and supplementing regulations on the discrete levels, and ensuring adaptation to practical conditions.

4. The Ministry of Industry and Trade shall grant certificates of eligibility for automobile manufacture and assembly regulated by the Government's regulations on eligibility conditions for automobile manufacture, assembly, import and provision of vehicle warranty and maintenance services in accordance with law.

5. Competent state authorities shall issue investment certificates, investment registration certificates, enterprise registration certificates and business registration certificates to enterprises strictly according to law provisions.

6. Relevant ministries and localities shall, according to their functions and tasks, carry out the examination and control activities to ensure due implementation of policies and anti-fraud practices.

7. Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, Chairpersons of People's Committees of provinces and centrally-affiliated cities and other organizations and individuals involved, shall be responsible for implementing this Decision./.

Article 4. Transitional regulations for cases of participation in the tax incentive program prescribed in Article 7a in the Decree No. 125/2017/ND-CP

1. Enterprises that have registered for the tax incentive program as prescribed in Article 7a of Decree No. 125/2017/ND-CP before the effective date of this Decree shall not be required to re-register for the tax incentive program and enjoy the privileges prescribed in this Decree from January 1, 2020 to the end of December 31, 2022. In case of change or addition of vehicle headings, makes/types, number of registered makes/types upon participation in the tax incentive program, enterprises must re-register with the customs authorities.

2. Component inventories used for manufacturing and assembling vehicles with pre-shipment quality check cards issued within the period of consideration of grant of tax incentive from January 1, 2020 onwards shall be entitled to the 0% duty rate if they conform to the regulations laid down in clause 3 of Article 2 herein. Component inventories used for manufacturing and assembling vehicles with pre-shipment quality check cards issued prior to January 1, 2020 shall not be entitled to the 0% duty rate.

3. Enterprises that carry out the procedures for declaration on the customs declaration for imported automobile components or accessories under the guidance of customs authorities and have registered for the tax incentive program before the effective date of this Decree shall not be required to carry out the procedures for making declaration on customs declarations as prescribed in clause 3 of Article 2 herein.

Article 5. Entry into force

1. This Decree shall enter into force from July 10, 2020, except clause 3 of Article 2 herein which is in force from January 1, 2020.

2. The paragraph "3. Section III: Regulations on preferential import tax rates applicable to several goods to fulfill commitments to WTO from January 1, 2019 onwards" in clause 3 of Article 1 in the Decree No. 125/2017/ND-CP dated November 16, 2017 and Appendices to the Decree No. 125/2017/ND-CP shall be abolished. /.

**PP. GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc

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