

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom - Happiness**

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No. 125/2017/ND-CP

*Ha Noi, November 16, 2017*

**DECREE**

ON AMENDMENTS TO CERTAIN ARTICLES OF THE GOVERNMENT’S DECREE NO. 122/2016/ND-CP DATED SEPTEMBER 01, 2016 ON EXPORT DUTY SCHEDULE, PREFERENTIAL IMPORT DUTY SCHEDULE AND LISTS OF COMMODITIES AND THEIR FLAT TAX RATES, COMPOUND TAX RATES AND OUTSIDE TARIFF QUOTA RATES

*Pursuant to the Law on the Government’s organization dated June 19, 2015;*

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

*Pursuant to the National Assembly’s Resolution No. 71/2006/QH11 dated November 29, 2006 on ratifying the protocol of accession of the Socialist Republic of Vietnam to the agreement establishing the World Trade Organization*

*At the request of the Minister of Finance;*

*The Government promulgates the Decree on amendments to certain articles of the Government’s Decree No. 122/2016/ND-CP dated September 01, 2016 on export duty schedule, preferential import duty schedule, lists of commodities and their flat tax rates, compound tax rates and outside tariff quota rates.*

**Article 1. Amendments to certain articles of the Government’s Decree No. 122/2016/ND-CP dated September 01, 2016 on the export duty schedule, preferential import duty schedule, list of commodities and their flat tax rates, compound tax rates and outside tariff quota rates (OTQR) (hereinafter referred to as “the Decree No. 122/2016/ND-CP”)**

1. Article 3 of the Decree is amended as follows:

**“Article 3. Issuance of the export duty schedule, preferential import duty schedule, list of commodities and their flat tax rates, compound tax rates and outside tariff quota rates**

The following appendices shall be issued together with this Decree:

1. Appendix I: Export duty schedule
2. Appendix II: Preferential import duty schedule,

3. Appendix III: The list of commodities and flat tax rates, compound tax rates imposed on used motor vehicles for transporting up to 15 people (including the driver).

4. Appendix IV: The list of commodities and OTQR imposed on commodities subject to tariff-rate quotas”.

2. Clause 1 Article 4 of the Decree is amended as follows:

**“Article 4. The export duty schedule**

1. The export duty schedule prescribed in the Appendix I hereof shall specify codes and descriptions of commodities and specific export duty rates imposed on each heading. Regarding commodities under the heading 211 in the export duty schedule, in case of customs declaration, the declarant shall declare their names and eight-number codes according to the preferential import duty schedule and the export duty rate of 5%. The commodities under the heading 211 are commodities that satisfy all following conditions:

a) Materials and semi-finished commodities are not under the headings from 1 to 210 of the export duty schedule.

b) Total value of resources and minerals and consumed energy accounts for at least 51% of the product prime cost. The total value of resources, minerals and consumed energy which accounts for 51% of the product prime cost shall be determined in accordance with regulations of the Government's Decree No. 100/2016/ND-CP dated July 01, 2016.”

3. Clause 2 and Clause 3 Article 5 of the Decree are amended as follows:

“2. Section II: Chapter 98 on product codes and specific preferential import duty rates imposed on certain headings and commodities.

a) Notes of, requirements and procedures for imposition of specific preferential import duty rates prescribed in Chapter 98.

- Chapter notes: The commodities mentioned in Clause 1 Part I Section II Appendix II of this Decree shall be entitled to the specific preferential import duty rates prescribed in Chapter 98.

- Heading notes:

+ Codes and specific preferential import duty rates on auto parts, chassis fitted with engines and cabins of motor vehicles are specified in Clause 2.1 Part I Section II of the Appendix II.

+ Alloy steels containing boron and/or chromium and/or titanium of heading 98.11; fillers, skin care commodities of heading 98.25; 1680/D/2 and 1890 D/2 nylon tire cord fabrics of heading 98.26; copper wires whose dimension of cross section is between 6 mm and 8 mm of heading 98.30; Polypropylene granules in primary form of heading 98.37; bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel of heading 98.39; Set top boxes of heading 98.46;

Neoweb commodities of heading 98.47 are entitled to specific preferential import duty rates prescribed in Chapter 98 if such commodities meet standards and technical parameters stipulated in Clauses 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8 and 2.9 Part I Section I of Annex II.

- Classification of, requirements and procedures for imposition of specific preferential import duty rates that are specified in Chapter 98 and statement of use of commodities entitled to specific preferential import duty rates prescribed in Chapter 98 are prescribed in Clause 3 Part I Section II of Appendix II.

b) The lists of commodities and specific preferential import duty rates shall contain codes of heading or commodities mentioned in the Chapter 98; descriptions thereof (names of headings or commodities); respective codes of such headings or commodities prescribed in Section I Appendix II (including 97 chapters in the Vietnam import duty schedule) and specific preferential import duty rates prescribed in Part II, Section II of Appendix II.

c) Mentioned headings or commodities which are entitled to both specific preferential import duty rates in Chapter 98 and special preferential import duty rates under applicable regulations of laws may be applied either of such above mentioned duty rates.

d) In case of customs declaration, declarants shall specify codes of commodities in “Mã hàng trong ứng tại Mục I Phụ lục II” column (respective codes in Section I Appendix II) and write down codes of such commodities specified in Chapter 98 to the side”.

3. Section III: Preferential import duty rates imposed on certain commodities under WTO commitments from January 01, 2019 onwards.”

4. Article 6 of the Decree is amended as follows:

**“Article 6. Preferential import duty rates imposed on machine tools**

Machine tools mentioned of headings from 84.54 to 84.63 are entitled to preferential import duty rates as follows:

1. Machine tools that cannot be manufactured in Vietnam are entitled to the import 0% duty. The abovementioned machines shall not be included in the list of machines and equipment that can be manufactured in Vietnam issued by the Ministry of Planning and Investment.

2. Machine tools that are not mentioned in Clause 1 of this Article are entitled to the preferential import duty rate imposed on commodities of headings from 84.54 to 84.63 of the import duty schedule prescribed in Section I Appendix II of this Decree.”

5. Article 7 of the Decree is amended as follows:

**“Article 7. Import duties on used motor vehicles**

1. The flat tax rates prescribed in Appendix III of this Decree shall be imposed on motor vehicles for transporting up to 9 people (including the driver) of a cylinder capacity not exceeding 1,000 cc of heading 87.03

2. Compound tax rate prescribed in Appendix III of this Decree shall be imposed on motor vehicles for transporting up to 9 people (including the driver) of a cylinder capacity exceeding 1,000 cc of heading 87.03 and motor vehicles for transporting from 10 to 15 people including the driver of heading 87.02.

3. The preferential import duty rate of 150% shall be imposed on motor vehicles for transporting at least 16 people (including the driver) of heading 87.02 and motor vehicles for the transport of commodities with the gross vehicle weight rating (GVWR) not exceeding 5 metric tons of heading 87.04 (except for refrigerated lorries (trucks), refuse/garbage collection vehicles having a refuse compressing device, bulk-cement lorries (trucks) and hook-lift lorries (trucks)).

4. Other motor vehicles of headings 87.02, 87.03 and 87.04 are subject to duty rates equal to 1.5 times the preferential import duty rates imposed on new vehicles of the same category under same headings prescribed in Section I Appendix II of this Decree.”

6. Article 7a is added as follows:

**“Article 7a. Preferential import duty rates imposed on imported auto parts of motor vehicles according to the tax incentive program (hereinafter referred to as “the Program”)**

1. Preferential import duty rates of 0% imposed on imported auto parts of motor vehicles of heading 98.49 in Section II Chapter 98 Appendix II of this Decree shall be specified as follows:

a) At the time of customs declaration, the declarant shall declare and pay taxes according to the common import duty rate, preferential import duty rate or special preferential import duty rate in accordance with applicable regulations of law. The preferential import duty rates shall not be imposed on the commodities of heading 98.49.

b) The import 0% duty shall be imposed on commodities of heading 98.49 in accordance with regulations in Point b Clause 3 of this Article.

2. Entities of and conditions for executing the Program:

a) The Program shall apply to enterprises that are eligible for manufacture and assembly of motor vehicles in accordance with the Government’s regulations on requirements for manufacture, assembly, import and maintenance of motor vehicles.

b) Conditions for executing the Program:

- Enterprises shall make a commitment to manufacture and/or assemble motor vehicles that meet Euro 4 (from 2018 to 2021) and Euro 5 (from 2022 onwards) and achieve the production

prescribed in Point b.12 Clause 3.2 Section I Chapter 98 of the Appendix II of this Decree according to the following production and types of motor vehicles:

+ The minimum production of domestic motor vehicles (hereinafter referred to as “the minimum overall production”) which is determined in each specific period prescribed in the roadmap of the Program in Point b.12 Clause 3.2 Section I Chapter 98 of Appendix II of this Decree applies to the following motor vehicles:

Motor vehicles for transport of persons for transporting up to 9 people (including the driver) of a cylinder capacity not exceeding 2,500 cc of heading 87.03

Motor vehicles for transporting from 10 to 19 people (minibuses) of heading 87.02

Motor vehicles for transporting at least 20 people (buses/ coaches) of heading 87.02

Motor vehicles for cargo transport and special purpose motor vehicles (lorries) of heading 87.04 and 87.05

+ The production of models under commitment (herein after referred to as “the minimum model production”) which is determined in each specific period prescribed in the roadmap of the Program in Point b.12 Clause 3.2 Section I Chapter 98 of Appendix II of this Decree according to the following quantity of models of motor vehicles under commitment:

A model of motor vehicles for transporting up to 9 people of a cylinder capacity not exceeding 2,500 cc and a fuel consumption under 7.5 liters/100km

A model of minibuses.

A model of buses or coaches.

2 models of lorries.

- The enterprises mentioned in Point a of this Clause shall import auto parts of motor vehicles for manufacture and assembly thereof or authorize other organizations or individuals to import such auto parts which shall satisfy the following requirements:

+ They are mentioned in heading 98.49.

+ They cannot be manufactured domestically.

+ The auto parts are finished commodities but have not been assembled or have not been finished but have basic characteristics of finished commodities with the minimum degree of completeness equal to those of imported auto parts prescribed in regulations on methods for determining localization rates of motor vehicles promulgated by the Ministry of Science and Technology and regulations in Point b.5.2 Clause 3.2 Section I Chapter 98 Appendix II of this Decree.

### 3. Application and procedures for executing the Program:

#### a) Applications and procedures for participating in the Program.

- An application shall consist of an application form for participation in the Program using the specimen 05 prescribed in Appendix II of this Decree and a certified copy of the certificate of eligibility for manufacture and assembly of motor vehicles, investment certificate or feasibility study proving that manufacture and assembly capacity of the factory is eligible for the annual minimum overall production of the Program applicable to auto parts of motor vehicles.

- An enterprise shall submit its application at the customs authority premises where its head office or factory is located to participate in the Program after this Decree is signed or any time within the Program's period. The enterprise may participate in the Program from the day on which the application is submitted onwards.

#### b) Applications and procedures for imposition of the duty rates prescribed in heading 98.49.

- An application shall include:

+ An application form for 0% duty on the commodities of heading 98.49, which specifies the expected period over which 0% duty is applied (hereinafter referred to as "0% duty period"), quantity of auto parts of motor vehicles that will be imported in the 0% duty period and have been used for manufacture and assembly of motor vehicles; quantity of models of motor vehicles that have been manufactured, assembled and duties that have been paid;

+ A declaration of use of auto parts of motor vehicles that have been imported in the 0% duty period using the specimen 06 prescribed in Appendix II of this Decree and certified copies of accounting records showing the quantity of imported auto parts that have been used for manufacture and assembly of motor vehicles entitled to the Program.

+ Certified copies of records on inspecting quality of motor vehicles that have been manufactured and assembled in the 0% duty period using the specimen issued by the Vietnam Register; certified copies of certificates of quality, technical safety and environmental safety of domestically manufactured and assembled motor vehicles (quantity of the copies is equal to types of manufactured and assembled motor vehicles) and certified copies of descriptions of technical design assessed by the Vietnam Register (quantity of the copies is equal to types of manufactured and assembled motor vehicles).

+ A list of customs declarations of imports; a declaration of paid tax specified in each customs declaration.

- Procedures for imposition of the duty rates prescribed in heading 98.49.

+ Within 60 days from June 30 or December 31, the enterprise shall submit the application for 0% duty prescribed in heading 98.49 on auto parts of motor vehicles that have been imported for manufacture and assembly of the motor vehicles specified in the roadmap of the Program in the

0% duty period to the customs authority. The 0% duty period requested by the enterprise shall not exceed 6 months, from January 01 to June 30 or from July 01 to December 31 every year.

+ If the enterprise wishes to participate in the Program immediately after this Decree is signed, within 60 days from June 30, 2018 onwards, the enterprise submits an application form for 0% duty prescribed in heading 98.49 on auto parts of motor vehicles that have been imported for manufacture and assembly of the motor vehicles from the day on which the application is submitted to June 30, 2018 to the customs authority.

+ The customs authority, according to the application submitted by the enterprise, shall inspect entities of and conditions for executing the Program prescribed in Clause 7.2, including:

The minimum overall production that has been achieved in each period prescribed in the roadmap of the Program.

The minimum model production has been achieved in each period prescribed in the roadmap of the Program.

+ If the 0% duty period is less than 6 months according to each period mentioned in the roadmap of the Program, the enterprise shall achieve the minimum overall production and minimum specific production applicable to each period mentioned in the roadmap of the Program prescribed in Point b.12 Clause 3.2 Section II Chapter 98 Appendix II of this Decree.

The minimum overall production and minimum specific production shall be determined according to the quantity of records on inspecting quality of finished commodities that have been issued in the 0% duty period by the Vietnam Register. Models of motor vehicles shall be determined according to the certificates of quality, technical safety and environmental safety of domestically manufactured and assembled motor vehicles issued by the Vietnam Register which is used for determining cylinder capacity, type and capacity of engine and the description of technical designs assessed by the Vietnam Register which is used for determining types of bodies or cabins of motor vehicles.

Imported auto parts of motor vehicles that have been used for manufacture and assembly of motor vehicles shall be under heading 98.49 in Section II Chapter 98 Appendix II of this Decree and cannot be manufactured domestically. The auto parts of motor vehicles that cannot be manufactured domestically shall be determined according to regulations issued by the Ministry of Planning and Investment.

The auto parts of motor vehicles shall satisfy the minimum degree of completeness prescribed in regulations issued by the Ministry of Science and Technology and regulations in Point b.5.2 Clause 3.2 Section I Chapter 98 Appendix II of this Decree.

Quantity of imported auto parts of motor vehicles that have been used shall be conformable with quantity of motor vehicles that have been manufactured and assembled in the inspection period according to use declarations, quantity of records on inspecting quality of finished commodities,

certificates of quality, technical safety and environmental safety of domestically manufactured and assembled motor vehicles.

+ According to results of the application verification,

If the enterprise satisfies sufficient conditions for participating in the Program and it has paid duties on imported auto parts of motor vehicles greater than duties payable calculated according to the tax rates imposed on commodities of heading 98.49, the customs authority will deal with the redundant taxes in accordance with regulation of law on tax management and its instructional documents.

If the enterprise fails to satisfy sufficient conditions for participating in the Program, the customs authority will send a written reply to the enterprise.

7. Article 8 of the Decree is amended as follows:

**“Article 8. The lists of commodities and import duty rates imposed on commodities subject to tariff-rate quotas**

1. The list of commodities subject to tariff-rate quota includes certain commodities of heading 04.07; 17.01; 24.01 and 25.01 prescribed in Appendix IV of the Decree.

2. Annual import tariff-rate quotas on the commodities mentioned in Clause 1 of this Article shall comply with regulations issued by the Ministry of Industry and Trade. If international treaties to which the Socialist Republic of Vietnam is a signatory contain tariff-rate quotas on import of the commodities prescribed in Clause 1 of this Article, these international treaties shall be applied.

3. Inside tariff quota rates are specified as follows:

a) If the commodities prescribed in Clause 1 of this Article are imported within the annual import tariff-rate quotas prescribed by the Ministry of Industry and Trade, they will be entitled to preferential import duty rates prescribed in Section I Appendix II of the Decree or special preferential import duty rates prescribed in the special preferential import duty schedules (if they satisfy all conditions for entitlement to special preferential import duty rate) issued together with the Government’s Decrees on promulgating special preferential import duty schedule for implementation of international treaties).

b) If international treaties to which the Socialist Republic of Vietnam is a signatory contain import quotas and import duty rates imposed on the commodities prescribed in Clause 1 of this Article, the import quotas and import duty rates within quotas prescribed in the Government’s Decrees on promulgating special preferential import duty schedule for implementation of international treaties will be applied.

c) If international treaties to which the Socialist Republic of Vietnam is a signatory only stipulate special preferential import duty rates, the commodities will not exceed annual import quotas

prescribed by the Ministry of Industry and Trade mentioned in Point a of this Clause to be entitled to special preferential import duty rates.

4. OTQR are specified as follows:

a) The commodities prescribed in Clause 1 of this Article whose imported quantity exceeds the annual import quotas prescribed by the Ministry of Industry and Trade will be subject OTQRs prescribed in Appendix IV of this Decree.

b) If international treaties to which the Socialist Republic of Vietnam is a signatory contain import quotas and/or OTQRs imposed on the commodities mentioned in Clause 1 of this Article, the Government's Decrees on promulgating special preferential import duty schedules for implementation of these international treaties will be applied. If the OTQRs prescribed in international treaties is greater than those prescribed in Appendix IV of this Decree, the OTQRs specified in the Appendix IV will be imposed".

## **Article 2. Effect**

1. This Decree comes into force from January 01, 2018.

2. Clause 2 Article 4 of the Decree No. 122/2016/ND-CP and Appendices of the Decree No. 122/2016/ND-CP are annulled.

3. Preferential import duty rates imposed on imported auto parts of motor vehicles of heading 98.49 prescribed in Article 7a shall be applied from the day on which this Decree is signed to December 31, 2022.

## **Article 3. Implementation**

Ministers, heads of ministerial agencies and governmental agencies and chairmen/chairwomen of People's Committees of provinces shall take responsibility for implementing this Decree.

**P.P GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

**APPENDIX III**

**LIST OF COMMODITIES AND FLAT TAX AND COMPOUND TAX IMPOSED ON USED MOTOR VEHICLES FOR TRANSPORTING UP TO 15 PEOPLE (INCLUDING THE DRIVER)**

(issued together with the Government's Decree No. 125/2017/ND-CP dated November 16, 2017)

1. Flat tax:

Regarding motor vehicles for transporting up to 9 people (including driver) of a cylinder capacity not exceeding 1,000 cc

<b>Description</b>	<b>Heading</b>	<b>Unit</b>	<b>Flat tax (USD)</b>
- Of a cylinder capacity not exceeding 1,000 cc	8703	Piece	10.000

2. The flat tax imposed on motor vehicles for transporting up to 9 people (including driver) of a cylinder capacity exceeding 1,000 cc of heading 87.03 and motor vehicles for transporting from 10 to 15 people (including driver) of heading 87.02 in the preferential import duty schedule shall be specified as follows:

a) Regarding motor vehicles for transporting up to 9 people (including driver) of a cylinder capacity exceeding 1,000 cc

<b>Description</b>	<b>Heading</b>	<b>Unit</b>	<b>Flat tax (USD)</b>
- Motor vehicles (including station wagons, SUVs and sports cars, but not including vans):	8703	Piece	200% or 150% plus (+) 10,000 USD whichever is lower
- Other vehicles:			
+ Of a cylinder capacity exceeding 1,000 cc but not exceeding 2,500cc	8703	Piece	X + 10.000USD
+ Of a cylinder capacity exceeding 2,500 cc	8703	Piece	X + 15,000USD

b) Regarding motor vehicles for transporting from 10 to 15 people (including driver):

<b>Description</b>	<b>Heading</b>	<b>Unit</b>	<b>Flat tax (USD)</b>
- Of a cylinder capacity under 2,500 cc	8702	Piece	X + 10,000
- Of a cylinder capacity at least 2,500cc	8702	Piece	X + 15,000

c) X mentioned in Point a and Point b shall be determined as follows:

X = Taxable price of used motor vehicles multiplied by (x) the duty rate imposed on new ones of chapter 87 prescribed in section I Appendix II - Preferential import duty schedule of this Decree at the time when the customs declaration is registered.

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