

## THE GOVERNMENT

### **Decree No. 113/2011/ND-CP of December 8, 2011, amending and supplementing a number of articles of the Government's Decree No. 26/2009/ND-CP of March 16, 2009, detailing a number of articles of the Law on Excise Tax**

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the  
Government;*

*Pursuant to the November 14, 2008 Law on Excise Tax;*

*At the proposal of the Minister of Finance,*

DECREES:

**Article 1.** To amend and supplement a number of articles of the Government's Decree No. 26/2009/ND-CP of March 16, 2009, detailing a number of articles of the Law on Excise Tax as follows:

**1. To amend and supplement Point b, Clause 1 of Article 2 as follows:**

“b/ Gasolene of all kinds, naphtha, reformade components and other components, including condensates, for mixing gasolene, under Point g, Clause 1, Article 2 of the Law on Excise Tax, but excluding naphtha, condensates, reformade components and other components used as production materials (except gasolene production) which are directly imported or bought from producers by traders.

The Ministry of Finance shall guide dossiers and procedures for determining those unliable for tax under this Point.”

**2. To amend and supplement Clause 4 of Article 3 as follows:**

“4. Cars specified in Clause 4, Article 3 of the Law on Excise Tax include cars which, according to manufacturer standards, are designed to be used as ambulances, prison vans or hearses; cars designed with both seats and standing places for transporting 24 or more persons; cars operating in recreation, entertainment and sports areas which neither are registered for circulation nor move on roads; and special-use cars and cars which neither are registered for circulation nor move on roads, as defined by the Ministry of Finance in coordination with related ministries and sectors.”

**3. To amend and supplement Article 4 as follows:**

“Article 4. Taxed prices

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1. For domestically produced goods, the excise tax calculation price is determined as follows:

$$\text{Excise tax calculation price} = \frac{\text{Selling price exclusive of value-added tax} - \text{Environmental protection tax (if any)}}{1 + \text{Excise tax rate}}$$

Of which, the selling price exclusive of value-added tax is determined under the law on value-added tax.

a/ In case an excise tax-liable goods producer sells goods via its dependent cost-accounting establishments, the price serving as a basis for excise tax calculation is the selling price set by such establishment. For a producer that sells goods via its agents that sell goods at prices set by the producer for commissions only, the price serving as a basis for determining the excise tax calculation price is the commission-inclusive selling price set by that producer;

b/ In case an excise tax-liable goods producer sells goods via trading establishments, the price serving as a basis for excise tax calculation is the selling price set by that producer, which must not be 10% lower than the average selling price set by such trading establishments. Particularly, the average selling price of cars set by a trading establishment is the selling price excluding equipment and devices which are further installed by the trading establishment at customers' request.

If the producer's selling price is 10% lower than the selling price set by trading establishments, the excise tax calculation price shall be assessed by the tax office.

2. For imported goods, the excise tax calculation price is determined as follows:

$$\text{Excise tax calculation price} = \text{Import-duty calculation price} + \text{Import duty.}$$

The import-duty calculation price is determined under the law on import duty and export duty. For imported goods eligible for import duty exemption or reduction, the taxed price is exclusive of the exempted or reduced import duty amount.

3. For excise tax-liable goods, the taxed price is inclusive of the tare value.

For bottled beer, if a deposit is made for bottles, producers and customers shall make quarterly finalization of such deposit and include the deposit sum equivalent to the value of irrecoverable bottles in the excise tax calculation turnover.

4. For excise tax-liable processed goods, the taxed price is the selling price set by the processing-ordering establishment or the selling price of products of the same or similar kind at the time of goods sale.
5. For goods produced in the form of business cooperation between a producer and an user or owner of goods trademarks (brands) or production technologies, the excise tax calculation price is the selling price set by that user or owner. In case an establishment produces goods under a concession license and transfers goods to Vietnam-based branches or representatives of foreign companies for sale, the excise tax calculation price is the selling price of those branches or representatives.
6. For goods sold on installment or deferred payment, the excise tax calculation price is the one-off selling price of such goods, exclusive of the installment or deferred payment interest.
7. For services, the excise tax calculation price is the service charge set by the service provider.
  - a/ For golf business, it is the value-added tax-exclusive sales of membership cards or golf-playing tickets, including golf playing charges, ground maintenance, buggy and caddy hire, deposit (if any) and other revenues paid by golf players or members to golf businesses. In case of trading in other goods or services not liable to excise tax such as hotel, catering, goods sale or game services, such goods or services are not liable to excise tax;
  - b/ For casino or prized video game business, it is the turnover from such business minus (-) the prizes paid to customers;
  - c/ For betting business, it is the turnover from the sale of betting tickets minus the paid prizes;
  - d/ For dance hall, massage parlor and karaoke bar business, it is the turnover from such business, inclusive of turnover from catering and other associated services;
  - e/ For lottery business, it is the turnover from the sale of tickets of licensed lotteries under law.
8. For goods and services used for barter, internal consumption, donation or sales promotion, their excise tax calculation price is the taxed price of goods or services of the same or similar kind at the time of barter, internal consumption, donation or sales promotion.
9. Excise tax calculation prices of goods and services specified in this Article are inclusive of revenues in addition to goods selling prices or service charges (if any) enjoyed by production and business establishments.

a/ Taxed prices are calculated in Vietnam dong. In case taxpayers have foreign-currency turnover, such turnover must be converted into Vietnam dong at the average exchange rate on the inter-bank foreign currency market announced by the State Bank of Vietnam at the time of turnover generation, for determination of taxed prices.

b/ For goods, the time of turnover generation is the time of transfer of the right to own or use the goods to the purchaser, regardless of whether or not money has been collected; for services, the time of turnover generation is the time of completing service provision or the time of making a service provision invoice, regardless of whether or not money has been collected.”

**4. To amend and supplement Article 5 as follows:**

“Article 5. Tax rates

Excise tax rates comply with the Excise Tariff specified in Article 7 of the Law on Excise Tax.

1. Cars designed for both passenger and cargo transportation as specified at Points 4d and 4g of the Excise Tariff are those designed with 2 or more rows of seats and fixed partitions between passenger compartments and cargo holds according to national standards provided by the Ministry of Science and Technology.

2. Cars running on gasoline in combination with bio-fuel or electricity as specified at Point 4e of the Excise Tariff are those which, according to manufacturer standards, are designed to have a mixed gasoline ratio not exceeding 70% of the total consumed fuel, and hybrid cars which, according to manufacturer standards, are designed to have a consumed gasoline ratio not exceeding 70% of the consumed fuel against the most gasoline-efficient car with the same seats and cylinder capacity on the Vietnamese market.

3. Cars running on bio-fuel or electricity as specified at Points 4f and 4g of the Excise Tariff are those which, according to manufacturer standards, are designed to run wholly on bio-fuel or electricity.”

**5. To amend and supplement Clause 1 of Article 7 as follows:**

“1. Taxpayers that produce excise tax-liable goods from excise tax-liable raw materials may have the excise tax amounts paid for imported raw materials or raw materials directly bought from domestic producers deducted upon the determination of payable excise tax amounts. The deductible excise tax amounts are equal to the amounts of excise tax on raw materials used for the production of goods sold.

The Ministry of Finance shall guide the deduction of excise tax paid for raw materials directly bought from domestic producers under this Clause.”

**Article 2. Effect**

1. This Decree takes effect on February 1, 2012.
2. The Ministry of Finance shall guide this Decree.
3. Ministries, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree.-

On behalf of the Government

*Prime Minister*

*NGUYEN TAN DUNG*

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