

THE STATE PRESIDENT

ORDER No. 13/2007/L-CTN OF DECEMBER 5, 2007, ON THE PROMULGATION OF LAW

THE PRESIDENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 50 of the Law on Promulgation of Legal Documents,

PROMULGATES:

the Law on Personal Income Tax,

which was passed on November 21, 2007, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 2nd session.

President of the Socialist Republic of Vietnam

NGUYEN MINH TRIET

LAW ON PERSONAL INCOME TAX

(No. 04/2007/QH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Personal Income Tax.

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Law provides for personal income taxpayers, taxable incomes, incomes eligible for personal income tax exemption or reduction, and personal income tax bases.

Article 2.- Taxpayers

1. Personal income taxpayers include residents who earn taxable incomes specified in Article 3 of this Law inside and outside the Vietnamese territory and non-residents who earn taxable incomes specified in Article 3 of this Law inside the Vietnamese territory.

2. Resident means a person who satisfies one of the following conditions:

- a/ Being present in Vietnam for 183 days or more in a calendar year or 12 consecutive months counting from the first date of their presence in Vietnam;
- b/ Having a place of habitual residence in Vietnam, which is a registered place of permanent residence or a rented house for dwelling in Vietnam under a term rent contract.

3. Non-resident means a person who does not satisfy any of the conditions specified in Clause 2 of this Article.

Article 3.- Taxable incomes

Incomes liable to personal income tax include the following kinds of income, except for incomes eligible for tax exemption specified in Article 4 of this Law:

1. Incomes from business activities, including:

- a/ Incomes from goods production or trading or service provision;
- b/ Incomes from independent professional activities of individuals possessing practice licenses or certificates in accordance with law.

2. Incomes from salaries and wages, including:

- a/ Salaries, wages and amounts of similar nature;
- b/ Allowances, except for those paid under legal provisions on preferential treatment of persons with meritorious services; defense or security allowances; hazard or danger allowances for persons working in branches, occupations or jobs at places where exist hazardous or dangerous elements; allowances for attraction of laborers to work in certain branches or in certain regions specified by law; allowances for sudden difficulties, allowances for laborers having labor accident or suffering from occupational disease, lump-sum maternity or child adoption allowances; allowances for working capacity loss, lump-sum retirement allowances, monthly survivorship allowances, severance and job loss allowances specified in the Labor Code, other allowances paid by the Social Insurance, and allowances for combat of social evils;
- c/ Remuneration of all kinds;
- d/ Sums of money earned for participation in business associations, boards of directors, control boards, management boards and other organizations;
- e/ Other monetary or non-monetary benefits received by taxpayers;
- f/ Bonuses, rewards, except for rewards accompanying honorary titles conferred by the State or international or national prizes; rewards for technical renovations, creations or inventions recognized by competent state agencies; rewards for detection and reporting of illegal acts to competent state agencies.

3. Incomes from capital investment, including:

- a/ Interests;
 - b/ Dividends;
 - c/ Incomes from capital investment in other forms, except for government bond interests.
4. Incomes from capital transfer, including:
- a/ Incomes from transfer of capital holdings in economic organizations;
 - b/ Incomes from transfer of securities;
 - c/ Incomes from transfer of capital in other forms.
5. Incomes from transfer of real estate, including:
- a/ Incomes from transfer of rights to use land and assets attached to land;
 - b/ Incomes from transfer of right to own or use residential houses;
 - c/ Incomes from transfer of right to lease land or water surface;
 - d/ Other incomes earned from transfer of real estate.
6. Incomes from won prizes, including:
- a/ Lottery winnings;
 - b/ Sales promotion winnings;
 - c/ Betting or casino winnings;
 - d/ Winnings in prized games and contests and other forms of winning.
7. Incomes from copyright, including:
- a/ Incomes from assignment or licensing of intellectual property objects;
 - b/ Incomes from technology transfer.
8. Incomes from commercial franchising.
9. Incomes from inheritances that are securities, capital holdings in economic organizations or business establishments, real estate and other assets subject to ownership or use registration.
10. Incomes from gifts that are securities, capital holdings in economic organizations or business establishments, real estate and other assets subject to ownership or use registration.

The Government shall detail and guide the implementation of this Article.

Article 4.- Tax-exempt incomes

1. Incomes from transfer of real estate between spouses; parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or among blood siblings.

2. Incomes from transfer of residential houses, rights to use residential land and assets attached to residential land received by individuals who have only one residential house or land plot each.
3. Incomes from the value of land use rights of individuals who are allocated land by the State.
4. Incomes from receipt of inheritances or gifts that are real estate between spouses, parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or among blood siblings.
5. Incomes of households and individuals directly engaged in agricultural or forest production, salt making, aquaculture, fishing and trading of aquatic resources not yet processed into other products or preliminarily processed aquatic products.
6. Incomes from conversion of agricultural land allocated by the State to households and individuals for production.
7. Incomes from interests on deposits at credit institutions or interests from life insurance policies.
8. Incomes from foreign exchange remittances.
9. Wages paid for night shift or overtime work, which are higher than those paid for day shifts or prescribed working hours in accordance with law.
10. Retirement pensions paid by the Social Insurance.
11. Incomes from scholarships, including:
 - a/ Scholarships granted from the state budget;
 - b/ Scholarships granted by domestic and foreign organizations under their study promotion programs.
12. Incomes from indemnities paid under life insurance policies, non-life insurance policies, compensations for labor accidents, compensations paid by the State and other compensations as provided for by law.
13. Incomes received from charity funds licensed or recognized by competent state agencies and operating for charity, humanitarian or non-profit purposes.
14. Incomes received from governmental or non-governmental foreign aid for charity or humanitarian purposes approved by competent state agencies.

Article 5.- Tax reduction

Taxpayers who face difficulties caused by natural disasters, fires, accidents or severe diseases and affecting their tax payment ability may be considered for tax reduction corresponding to the extent of damage they suffer from but not exceeding payable tax amounts.

Article 6.- Conversion of taxable incomes into Vietnam dong

1. A taxable income received in a foreign currency must be converted into Vietnam dong at the average exchange transaction rate on the inter-bank foreign exchange market announced by the State Bank at the time of income generation.
2. A taxable income received in the form of a product or service must be converted into Vietnam dong at the market price of that product or service or of products or services of the same or similar type at the time of income generation.

Article 7.- Tax period

1. For residents, tax period is specified as follows:
 - a/ Annual tax period, which is applicable to incomes from business, salaries and wages.
 - b/ Tax period upon each time of income generation, which is applicable to incomes from capital investment; incomes from capital transfer, except for incomes from securities transfer; incomes from real estate transfer; incomes from prizes; incomes from copyright; incomes from commercial franchising; incomes from inheritances; and gifts.
 - c/ Tax period upon each transfer or annual tax period, which is applicable to securities transfer. Individuals who apply the annual tax period shall register with tax offices at the beginning of the year.
2. For non-residents, the tax period counted upon each time of income generation is applicable to all their taxable incomes.

Article 8.- Tax administration and tax refund

1. Tax registration, declaration, withholding, payment, finalization and refund, handling of violations of the tax law, and tax administration measures comply with legal provisions on tax administration.
2. Individuals are entitled to tax refund in the following cases:
 - a/ Their paid tax amounts are larger than payable tax amounts;
 - b/ They have paid tax but their taxed incomes do not reach a tax-liable level;
 - c/ Other cases decided by competent state agencies.

Article 9.- Application of treaties

If a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions on personal income tax different from the provisions of this Law, the provisions of that treaty prevail.

Chapter II

TAX BASES FOR RESIDENTS

Section 1. DETERMINATION OF TAXABLE INCOMES AND TAXED INCOMES

Article 10.- Taxable incomes from business

1. A taxable income from business is determined to be equal to turnover minus reasonable expenses related to the generation of the taxable income from business in a tax period.

2. Turnover means the total of sales, processing remuneration, commissions, goods or service provision charges generated in a tax period from goods production and trading or service provision.

The time of determination of turnover is the time of transfer of ownership of goods or completion of services or the time of making goods sale or service provision invoices.

3. Reasonable expenses related to the generation of taxable incomes from business in a tax period include:

a/ Salaries, wages, remuneration and other payments to laborers;

b/ Expenses for raw materials, fuels, materials, energy and goods used for production or business, charges for services purchased from outside;

c/ Expenses for depreciation, regular repair and maintenance of fixed assets used for production or business;

d/ Paid interests;

e/ Management expenses;

f/ Taxes, charges and fees payable under law and allowed to be accounted as expenses;

g/ Other expenses related to the generation of incomes.

4. The determination of turnover and expenses is based on accounting norms, standards, regulations, documents and books prescribed by law.

5. If many persons jointly conduct business activities under the same business registration, taxable income of each of them is determined according to one of the following principles:

a/ In proportion to their capital contributions stated in the business registration;

b/ Under their agreement stated in the business registration;

c/ According to the average per-capita income in case the business registration neither states their capital contributions nor contains any agreement on income division among them.

6. For business individuals who fail to strictly comply with regulations on accounting, invoices and documents and cannot measure turnover, expenses

and taxable income, competent tax offices shall predetermine turnover and the ratio of taxable income in order to determine taxable income suitable to each industry or business line under the law on tax administration.

Article 11.- Taxable incomes from salaries or wages

1. A taxable income from salary or wage is determined to be equal to the total of incomes specified in Clause 2, Article 3 of this Law and earned by a taxpayer in a tax period.
2. Time of determination of a taxable income from salary or wage is the time when an organization or individual pays income to a taxpayer or when a taxpayer receives income.

Article 12.- Taxable incomes from capital investment

1. A taxable income from capital investment is the total of incomes from capital investment specified in Clause 3, Article 3 of this Law and earned by a taxpayer in a tax period.
2. Time of determination of a taxable income from capital investment is the time when an organization or individual pays income to a taxpayer or when a taxpayer receives income.

Article 13.- Taxable incomes from capital transfer

1. A taxable income from capital transfer is determined to be equal to the selling price minus the buying price and reasonable expenses related to the generation of income from capital transfer.
2. If the buying price and expenses related to the securities transfer are unidentifiable, taxable income is determined to be the selling price of securities.
3. Time of determination of a taxable income from capital transfer is the time when the capital transfer transaction is completed in accordance with law.

The Government shall detail and guide the implementation of this Article.

Article 14.- Taxable incomes from real estate transfer

1. A taxable income from real estate transfer is determined to be equal to the real estate transfer price upon the transfer minus the real estate buying price and related expenses, specifically as follows:

- a/ Real estate transfer price is the contractual price at the time of transfer;
- b/ Real estate buying price is the contractual price at the time of purchase;
- c/ Related expenses to be subtracted are those recorded in vouchers and invoices lawfully, including charges and fees related to land use rights as prescribed by law; expenses for land revamp, house renovation, ground leveling; expenses for investment in building residential houses,

infrastructures and architectures on land; and other expenses related to the real estate transfer.

2. If the buying price and expenses related to the transfer of a real estate are unidentifiable, the taxable income is determined to be the real estate transfer price.

3. The Government shall stipulate principles and methods of determination of real estate transfer prices in case transfer prices are unidentifiable or land use rights transfer prices stated in contracts are lower than land prices promulgated by provincial-level People's Committees and effective at the time of transfer.

4. Time of determination of a taxable income from real estate transfer is the time when the transfer contract becomes effective in accordance with law.

Article 15.- Taxable incomes from won prizes

1. A taxable income from won prize is the prize value in excess of VND 10 million received by a taxpayer upon each time of winning.

2. Time of determination of a taxable income from won prize is the time when an organization or individual pays income to a taxpayer.

Article 16.- Taxable incomes from copyright

1. A taxable income from copyright is an income in excess of VND 10 million earned by a taxpayer when assigning or licensing an intellectual property object or transferring a technology under a contract.

2. Time of determination of a taxable income from copyright is the time when an organization or individual pays income to a taxpayer.

Article 17.- Taxable incomes from commercial franchising

1. A taxable income from commercial franchising is an income in excess of VND 10 million earned by a taxpayer under a commercial franchising contract.

2. Time of determination of a taxable from commercial franchising is the time when an organization or individual pays income to a taxpayer.

Article 18.- Taxable incomes from inheritances or gifts

1. A taxable income from inheritance or gift is the value of an inherited asset or a gift in excess of VND 10 million received by a taxpayer upon each time of inheritance or gift receipt.

2. Time of determination of a taxable income is specified as follows:

a/ For an income from inheritance, it is the time when a taxpayer receives an inherited estate;

b/ For an income from gift, it is the time when an organization or individual presents a gift to a taxpayer or when a taxpayer receives the income.

Article 19.- Reduction based on family circumstances

1. Reduction based on family circumstances means a sum of money deductible from pre-tax income from business, salary or wage of a resident taxpayer.

Reduction based on family circumstances consists of the following two parts:

a/ Reduction for the taxpayer, which is VND 4 million/month (VND 48 million/year);

b/ Reduction for each dependant of the taxpayer, which is VND 1.6 million/month.

2. The level of reduction based on family circumstances applicable to dependants is determined on the principle that each dependant may be counted only once for tax reduction for a taxpayer.

3. Dependants of a taxpayer means persons a taxpayer is responsible for nurturing or taking care of, including:

a/ His/her minor children or disabled children who are incapable of working;

b/ Individuals who have no income or have incomes not exceeding the prescribed level, including adult children who are studying at a university, college, professional secondary school or job-training establishment; his/her spouse who is incapable of working; his/her parents who are beyond the working age or incapable of working; other supportless persons whom the taxpayer has to directly nurture.

The Government shall specify the income level and declaration for identification of dependants to be counted for reduction based on family circumstances.

Article 20.- Reduction for charity or humanitarian donations

1. Charity or humanitarian donations are deductible from pre-tax income from business, salary or wage of a resident taxpayer, including:

a/ Donations to organizations or establishments that care for or nurture children in special plights, disabled people and supportless elderly people.

b/ Donations to charity funds, humanitarian funds or study promotion funds.

2. Organizations, establishments and funds specified at Points a and b, Clause 1 of this Article must be those licensed or recognized by competent state agencies and operating for charity, humanitarian, study promotion or non-profit purposes.

Article 21.- Taxed incomes

1. A taxed income from business, salary or wage is the total of taxable incomes specified in Articles 10 and 11 of this Law minus premiums of social insurance, health insurance and professional liability insurance for some

professions and jobs subject to compulsory insurance and reductions specified in Articles 19 and 20 of this Law.

2. Taxed incomes from capital investment, capital transfer, real estate transfer, won prizes, copyright royalties, commercial franchising, inheritances or gifts are taxable incomes specified in Articles 12, 13, 14, 15, 16, 17 and 18 of this Law.

Section 2. TARIFFS

Article 22.- Partially progressive tariff

1. The partially progressive tariff applies to taxed incomes specified in Clause 1, Article 21 of this Law.

2. The partially progressive tariff is specified below:

Tax grade	Taxed income per year (VND million)	Taxed income per month (VND million)	Tax rate (%)
1	Up to 60	Up to 5	5
2	Between over 60 and 120	Between over 5 and 10	10
3	Between over 120 and 216	Between over 10 and 18	15
4	Between over 216 and 384	Between over 18 and 32	20
5	Between over 384 and 624	Between over 32 and 52	25
6	Between over 624 and 960	Between over 52 and 80	30
7	Over 960	Over 80	35

Article 23.- Whole income tariff

1. The whole income tariff applies to taxed incomes specified in Clause 2, Article 21 of this Law.

2. The whole income tariff is specified below:

Taxed incomes	Tax rate (%)
a/ Incomes from capital investment	5
b/ Incomes from copyright, commercial franchising	5
c/ Incomes from prizes	10
d/ Incomes from inheritances, gifts	10
e/ Incomes from capital transfer specified in Clause 1, Article 13 of this Law	20
Incomes from securities transfer specified in Clause 2, Article 13 of this Law	0.1

f/ Incomes from real estate transfer specified in Clause 1, Article 14 of this Law	25
Incomes from real estate transfer specified in Clause 2, Article 14 of this Law	2

Article 24.- Responsibilities of income-paying organizations and individuals and responsibilities of resident taxpayers

1. Responsibility to make tax declaration, withholding, payment and finalization is specified as follows:

a/ Income-paying organizations and individuals shall make tax declaration, withhold and remit tax into the state budget, and make tax finalization for all kinds of taxable income they pay to taxpayers;

b/ Individuals who have taxable incomes shall make tax declaration, pay tax into the state budget and make tax finalization for all their incomes in accordance with the law on tax administration.

2. Income-paying organizations and individuals shall supply information on incomes and dependants of taxpayers under their management in accordance with law.

3. The Government shall specify tax withholding rates suitable to each kind of income specified at Point a, Clause 1 of this Article.

Chapter III

TAX BASES FOR NON-RESIDENTS

Article 25.- Tax on incomes from business

1. Tax on incomes from business of a non-resident is determined to be equal to his/her turnover from production or business activities specified in Clause 2 of this Article multiplied by the tax rate specified in Clause 3 of this Article.

2. Turnover is the total sum of money derived from the provision of goods or services, including also expenses paid by the goods or service buyer on behalf of the non-resident but not refunded to the goods or service buyer.

If a contract between the goods or service provider and buyer does not specify personal income tax, the taxable turnover that must be converted is the total sum of money in any form earned by the non-resident from the provision of goods or services in Vietnam, regardless of places where business activities are conducted.

3. Tax rates applicable to incomes from business are specified for different production sectors or business lines as follows:

a/ 1% for goods trading;

b/ 5% for service provision;

c/ 2% for production, construction, transportation and other business activities.

Article 26.- Tax on incomes from salaries or wages

1. Tax on income from salary or wage of a non-resident is determined to be equal to his/her income from salary or wage specified in Clause 2 of this Article multiplied by the tax rate of 20%.
2. Taxable income from salary or wage of a non-resident is the total of salary or wage amounts received by a non-resident for job performance in Vietnam, regardless of income payers.

Article 27.- Tax on incomes from capital investment

Tax on income from capital investment of a non-resident is determined to be equal to the total sum of money earned by a non-resident from his/her capital investment in organizations or other individuals in Vietnam, multiplied by the tax rate of 5%.

Article 28.- Tax on incomes from capital transfer

Tax on income from capital transfer of a non-resident is determined to be equal to the total sum of money earned by a non-resident from the transfer of his/her capital portions in Vietnamese organizations or individuals, multiplied by the tax rate of 0.1%, regardless of whether the transfer is made in Vietnam or abroad.

Article 29.- Tax on incomes from real estate transfer

Tax on income from real estate transfer in Vietnam of a non-resident is determined to be equal to the real estate transfer price multiplied by the tax rate of 2%.

Article 30.- Tax on incomes from copyright or franchising

1. Tax on income from copyright of a non-resident is determined to be equal to the income in excess of VND 10 million earned from each contract on assignment or licensing of an intellectual property object or technology transfer in Vietnam, multiplied by the tax rate of 5%.
2. Tax on income from commercial franchising of a non-resident is determined to be equal to the income in excess of VND 10 million earned from each contract on commercial franchising in Vietnam, multiplied by the tax rate of 5%.

Article 31.- Tax on incomes from won prizes, inheritances or gifts

1. Tax on income from won prize, inheritance or gift of a non-resident is determined to be equal to his/her taxable income specified in Clause 2 of this Article multiplied by the tax rate of 10%.
2. Taxable income from won prize of a non-resident is the prize value in excess of VND 10 million upon each time of winning in Vietnam; taxable

income from inheritance or gift is the inheritance or gift value in excess of VND 10 million upon each time of income receipt by a non-resident in Vietnam.

Article 32.- Time of determination of taxable income

1. Time of determination of taxable income with respect to incomes specified in Article 25 of this Law is the time when a non-resident earns an income or a goods sale or service provision invoice is issued.
2. Time of determination of taxable income with respect to incomes specified in Articles 26, 27, 30 and 31 of this Law is the time when an organization or individual in Vietnam pays an income to a non-resident or when a non-resident receives an income from an overseas organization or individual.
3. Time of determination of taxable income with respect to incomes specified in Articles 28 and 29 of this Law is the time when a transfer contract becomes effective.

Article 33.- Responsibilities of income-paying organizations and individuals and responsibilities of non-resident taxpayers

1. Income-paying organizations and individuals shall withhold and remit tax into the state budget upon each time of payment of taxable incomes to taxpayers.
2. Non-resident taxpayers shall make tax declaration and payment upon each time of generation of taxable income in accordance with the law on tax administration.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 34.- Effect

1. This Law takes effect on January 1, 2009.
2. To annul the following documents and regulations:
 - a/ Ordinance No. 35/2001/PL-UBTVQH10 on Income Tax on High-Income Earners, which had a number of articles amended and supplemented by Ordinance No. 14/2004/PL-UBTVQH11;
 - b/ The June 22, 1994 Law on Land Use Rights Transfer Tax, which had a number of articles amended and supplemented by Law No. 17/1999/QH10;
 - c/ Provisions of Enterprise Income Tax Law No. 09/2003/QH11 on enterprise income tax applicable to individuals engaged in production or business activities, excluding private enterprises;
 - d/ Other regulations on personal income tax which are contrary to the provisions of this Law.

3. Individuals having incomes eligible for tax incentives provided for in legal documents promulgated before the effective date of this Law continue enjoying those incentives.

Article 35.- Implementation guidance

The Government shall detail and guide the implementation of this Law.

This Law was passed on November 21, 2007, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 2nd session.

Chairman of the National Assembly

NGUYEN PHU TRONG