

MINISTRY OF FINANCE

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom – Happiness

No.: 1534/BTC-CST

Hanoi, January 31, 2019

Re: Incentive policies for rooftop solar power projects with installed capacity of not exceeding 50kw

To: - Departments of Taxation of provinces/cities;
- Customs Departments of provinces/cities.

The Prime Minister has promulgated the Decision No. 11/2017/QD-TTg dated April 11, 2017 on mechanism for encouraging development of solar power in Vietnam and Decision No. 02/2019/QD-TTg dated January 08, 2019 providing amendments to the Decision No. 11/2017/QD-TTg. In order to implement guidelines given by Deputy the Prime Minister Vuong Dinh Hue at the Official Dispatch No. 5111/VPCP-KTTH dated May 31, 2018 of the Office of the Government, the Ministry of Finance hereby provides guidance on tax policies for rooftop solar power projects with installed capacity of not exceeding 50kW as follows:

1. Investment incentives:

Clause 6 Section I Part A of the Government's Decree No. 118/2015/ND-CP dated November 12, 2015 providing guidelines for some Articles of the Law on investment stipulates that "*Production of renewable energy, clean energy, and waste-to-energy production*" are classified as business lines eligible for special investment incentives. The generation of electricity using solar energy of rooftop solar power projects is considered as "production of renewable energy, clean energy" business line. Thus, these projects are eligible for special investment incentives.

2. Import duties:

- Clause 11 Article 16 of the Law on export and import duties No. 107/2016/QH13 stipulates that "*Imports as fixed assets of an entity eligible for investment incentives as prescribed by regulations of the Law on investment, including:*

a) *Machinery and equipment; components, parts, spare parts for assembly or operation of machinery and equipment; raw materials for manufacture of machinery and equipment, components, parts, or spare parts of machinery and equipment;*

b) *Special-use vehicles in a technological line directly used for a manufacture project;*

c) *Building materials that cannot be domestically produced.*

Exemption of import duty on the imports specified in this Clause also applies to new investment projects and extension projects.

- Clause 13 Article 16 of the Law on export and import duties No. 107/2016/QH13 stipulates that "*Raw materials and components which cannot be domestically manufactured and are imported serving the manufacturing of investment projects eligible for investment incentives or in an extremely disadvantaged area prescribed by regulations of law on investment, high technology enterprises, science and technology*

enterprises, science and technology organizations are exempt from import duties for 05 years from the commencement of manufacture”.

- Clause 2 Article 10 of the Decision No. 11/2017/QĐ-TTg stipulates that *“Solar power projects are eligible for exemption from import duties on goods imported as fixed assets in accordance with effective regulations on import and export duties regarding materials, components and semi-finished products that cannot be domestically manufactured and are imported to serve manufacturing activities of projects”.*

Pursuant to the abovementioned regulations, rooftop solar power projects with capacity of not exceeding 50kw are eligible for exemption from import duties on goods imported as fixed assets of projects according to Clause 2 Article 10 of the Decision No. 11/2017/QĐ-TTg; in case, the business line of a rooftop solar power project with capacity of not exceeding 50kw is considered as business lines eligible for special investment incentives as regulated by the Law on investment, apart from application of incentive policies mentioned in Clause 2 Article 10 of the Decision No. 11/2017/QĐ-TTg, it is eligible for exemption from import duties on raw materials and components which cannot be domestically manufactured and are imported serving the manufacturing of investment project for a period of 05 years from the commencement of manufacture as regulated in Clause 13 Article 16 of the Law on export and import duties No. 107/2016/QH13. Procedures for duty exemption shall be carried out according to Article 30 and Article 31 of the Government’s Decree No. 134/2016/ND-CP dated September 01, 2016 providing guidelines for the Law on export and import duties.

3. Corporate income tax (CIT):

- Clause 1 and Clause 2 Article 15 of the Government’s Decree No. 218/2013/ND-CP dated December 26, 2013 providing guidelines for the Law on corporate income tax stipulates that *“1. 10% rate for 15 years is applied to:*

...

b) Incomes of the enterprise from execution of new investment projects in the following areas: ... production of renewable energy, clean energy, and waste-to-energy production; development of biotechnology.

...

2. 10% tax applies to the following incomes:

a) Incomes of enterprises' investment in the public sector fields such as education – training, vocational training, healthcare, culture, sports and environment.

The list of types, criteria for scale, and standards of enterprises making investment in the public sector is compiled by the Prime Minister;

...”

- Clause 1 and Clause 2 Article 16 of the Decree No. 218/2013/ND-CP stipulates: *“1. Tax exemption for 4 years and 50% tax reduction for the next 9 years are applied to:*

a) Incomes of enterprises from execution of investment projects prescribed in Clause 1 Article 15 of this Decree;

b) Incomes of enterprises from execution of new investment projects in the public sector in disadvantaged areas or extremely disadvantaged areas as prescribed in the Appendix enclosed with this Decree.

2. Tax exemption for 4 years and 50% tax reduction for the next 5 years are applied to incomes of enterprises from execution of new investment projects in the public sector in areas other than disadvantaged areas and extremely disadvantaged areas as prescribed in the Appendix enclosed with this Decree”.

- Clause 5 Article 3 of the Circular No. 78/2014/TT-BTC dated June 18, 2014 stipulates: “5. In case public service providers, other organizations that are not enterprises established and operating under the Law of Vietnam, and enterprises paying VAT using direct method earn incomes from goods and services subject to CIT and can determine their revenues but cannot determine costs and incomes from business activities, they shall declare and pay CIT at the following percentage of revenues from the sale of goods and supply of services. To be specific:

+ For services (including interests on deposits and loans): 5%.

Regarding education, healthcare, art performance: 2%.

+ For goods trading: 1%.

+ For other business activities: 2%”.

- Clause 4 Article 18 of the Law on corporate income tax stipulates: “Within the same period, if an enterprise meets multiple requirements for CIT incentives on the same income, it shall be entitled to the most favorable CIT incentive”.

Pursuant to the abovementioned regulations, enterprises shall be eligible for CIT incentives on incomes from new rooftop solar power projects with capacity of not exceeding 50kW according to Clause 1 Article 15 and Clause 1 Article 16 of the Decree No. 218/2013/ND-CP.

- In case an enterprise generating electricity from a rooftop solar power project with capacity of not exceeding 50kw is classified as a *producer of renewable energy from sunlight* and meets criteria for scale and standards for producers of renewable energy from sunlight as prescribed in Point 8 Section VI - The List of types, criteria for scale, and standards of enterprises making investment in the public sector field that is environment (promulgated together with the Prime Minister’s Decision No. 693/QD-TTg dated May 06, 2013 on amendments to the List of types, criteria for scale, and standards of enterprises making investment in the public sector fields such as education – training, vocational training, healthcare, culture, sports and environment enclosed with the Prime Minister’s Decision No. 1466/QD-TTg dated October 10, 2008), it shall be eligible for CIT rate incentives on incomes from investment in that public sector as regulated in Clause 2 Article 15 of the Decree No. 218/2013/ND-CP.

With regard to new investment projects in the public sector fields in disadvantaged areas or extremely disadvantaged areas or in other areas, they shall be given exemption or reduction of CIT as regulated in Clause 2 Article 16 of the Decree No. 218/2013/ND-CP.

- In case an enterprise generating electricity from a rooftop solar power project with capacity of not exceeding 50kw is a public service provider, other organization that is not an enterprise established and operating under the Law of Vietnam, or an enterprise paying VAT using direct method, earns incomes from goods and services subject to CIT and can determine its revenue but cannot determine costs and incomes from business activities, it shall declare and pay CIT according to the percentage of revenues from the sale of goods and supply of services with respect to incomes from its rooftop solar power project according to regulations on other business activities in Clause 5 Article 3 of the Circular No. 78/2014/TT-BTC dated June 18, 2014 of the Ministry of Finance.

Within the same period, if the enterprise meets multiple requirements for CIT incentives on the same income, it shall be entitled to the most favorable CIT incentive.

4. Excise tax:

Pursuant to the Law on excise tax, electricity is not subject to excise tax.

5. Value-added tax (VAT):

- Clause 25 Article 4 of the Circular No. 219/2013/TT-BTC dated December 31, 2013 of the Ministry of Finance providing guidelines for the Law on value-added tax and the Government's Decree No. 209/2013/ND-CP dated December 18, 2013 providing guidelines for the Law on value-added tax stipulates that *"Goods/services of a household business or businessperson whose annual revenue does not exceed one hundred million VND shall be not subject to VAT"*.

- Article 11 of the Circular No. 219/2013/TT-BTC stipulates: *"10% rate shall be applied to goods/services other than the ones prescribed in Article 4, Article 9 and Article 10 of this Circular"*.

- Clause 2 Article 13 of the Circular No. 219/2013/TT-BTC stipulates direct method employed for calculating VAT: *"2. The payable VAT under the direct method is calculated by multiplying the rate (%) by revenue and applied as follows:*

a) Subjects of application:

- *Enterprises and cooperatives that are operating with annual revenue less than one billion VND, except for case of voluntary payment of VAT using credit-invoice method as prescribed in Clause 3 Article 12 of this Circular;*

- *New enterprises and cooperatives, except for case of voluntary payment of VAT using credit-invoice method as prescribed in Clause 3 Article 12 of this Circular;*

- *Household businesses and businesspeople;*

...

- *Economic organizations other than enterprises and cooperatives, except for case of registration of payment of VAT using credit-invoice method.*

b) The rate (%) used for calculating VAT on revenue is provided for as follows:

...

- *Manufacturing, transport, services associated with goods, construction inclusive of building materials: 3%;*

- *Other business activities: 2%.*

c) Revenue means total amounts actually earned from goods sale or service provision and written on invoice of goods/services subject to VAT, inclusive of surcharges and/or additional fees paid to a business establishment".

- Article 2 of the Circular No. 92/2015/TT-BTC dated June 15, 2015 of the Ministry of Finance providing guidelines for VAT and personal income tax incurred by residents doing business, amendments to some Articles on personal income tax of the Law No. 71/2014/QH13 on amendments to Tax Laws and the Government's Decree No. 12/2015/ND-CP dated February 12, 2015 on guidelines for the Law on amendments to Tax Laws and Decrees on taxation stipulates: *"Article 2. Tax calculation methods applied by businesspeople paying fixed tax"*

1. Applied principles:

a) Businesspeople who pay fixed tax (hereinafter referred to as payers of fixed tax) are those who earn revenue from trading in goods/services in any field and sector prescribed by law, except for the businesspeople mentioned in Article 3, Article 4, and Article 5 of this Circular.

b) If the revenue subject to personal income tax (PIT) earned by a businessperson who pays fixed tax in the year is VND 100 million/year or lower, the person shall not pay VAT and PIT.

...

2. Basis for tax calculation

...

b) Tax rates

b.1) Tax rates include VAT rate and PIT rate and vary according to the business line as follows:

...

- Manufacturing, transport, services associated with goods, construction inclusive of building materials shall incur 3% VAT and 1.5% PIT.

- Other business lines shall incur 2% VAT and 1% PIT. b.2) The detailed list of business lines and corresponding tax rates is provided in Appendix 01 enclosed herewith".

Pursuant to the abovementioned regulations:

- If the revenue earned by an individual or a household business from execution of the rooftop solar power project is more than VND 100 million per year, that individual or household business must pay VAT at the tax rate corresponding to his/her/its business line prescribed in Article 2 of the Circular No. 92/2015/TT-BTC.

- If the revenue earned by an individual or a household business from execution of the rooftop solar power project is VND 100 million per year or lower, the revenue from selling of electricity shall not be subject to VAT as regulated in Clause 1 Article 2 of the Circular No. 92/2015/TT-BTC.

- When selling electricity, enterprises that execute solar power projects and pay VAT using credit-invoice method shall issue invoices and make declaration of output VAT as regulated in Article 11 of the Circular No. 219/2013/TT-BTC.

- In case an enterprise that executes a rooftop solar power project with capacity of not exceeding 50kw is eligible for payment of VAT using direct method, it shall make declaration and payment of VAT on its manufacturing as regulated in Point b Clause 2 Article 13 of the Circular No. 219/2013/TT-BTC.

6. Personal income tax (PIT):

Pursuant to the Law No. 71/2014/QH13 on amendments to the Tax Laws and relevant instructional documents, businesspeople shall pay PIT directly on their incomes with various tax rates depending on their business fields or works. A businessperson whose revenue is VND 100 million/year or lower must not make declaration and payment of PIT and VAT as regulated in Clause 1 Article 2 of the Circular No. 92/2015/TT-BTC.

In case the revenue earned by an individual or a household business from execution of the rooftop solar power project is more than VND 100 million per year, that individual or household business shall pay PIT at the rate corresponding to his/her/its business line as prescribed in the abovementioned Point b.1 Article 2 of the Circular No. 92/2015/TT-BTC.

7. Fees and charges:

Pursuant to the Law on fees and charges, fees for processing of applications for electricity license and applications for business registration concerning power projects (including solar power projects) are provided for in the List enclosed with this Law. Specific fees, collection, transfer, management and use thereof shall be collected and made according to regulations of the Ministry of Finance (fees for processing of applications for electricity license) or of Provincial-level People's Councils (business registration fees).

- Fees for processing of applications for electricity license shall be paid according to the Circular No. 167/2016/TT-BTC dated October 26, 2016 of the Ministry of Finance on fees for processing of applications for electricity license, collection, transfer, management and use thereof. Pursuant to Clause 2 Article 3 of the Circular No. 12/2017/TT-BCT dated July 31, 2017 of the Ministry of Industry and Trade on procedures for issuance and revocation of electricity licenses, "*Generation of electricity with installed capacity of not exceeding 01MW to serve the purpose of selling electricity to other organizations and individuals shall be exempted from electricity license*". Thus, rooftop solar power projects with installed capacity of not exceeding 50kW (< 01MW) shall be exempted from electricity license.

- Business registration fees: Pursuant to the List of fees and charges enclosed with the Law on fees and charges, business registration fees shall be paid according to regulations of the Provincial-level People's Councils. Thus, when applying for business registration for selling unused electricity generated from the rooftop solar power project, the individual or household business executing rooftop solar power project must pay business registration fees as regulated by the in-charge Provincial-level People's Council.

These guidelines on tax policies for rooftop solar power projects are given by the Ministry of Finance to relevant authorities for knowing and instructing concerned entities to comply with tax laws./.

**BY ORDER OF MINISTER PP. DIRECTOR OF TAX
POLICY DEPARTMENT
DEPUTY DIRECTOR**

Nguyen Thi Thanh Hang