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| MINISTRY OF FINANCE  -----  Number:134/2014/TT-BTC | **SOCIALIST REPUBLIC OF VIETNAM**  **Independence - Freedom - Happiness**    Ha Noi, September 12, 2014 |

**CIRCULAR**

**Guidelines on extension procedures for tax payment and value added tax refund deadline formachinery and equipment imported to create fixed assets of investment projects**

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Pursuant to the Law on Value Added Tax No. 13/2008/QH12 on June 3, 2008 and the Law on amending and supplementing a number of articles of the Law on Value Added Tax No. 31/2003/QH13 onJune 19, 2013;

Pursuant to the Law on Tax Administration No. 78/2006/QH11 on November 29, 2006 and the Law on amending and supplementing a number of articles of the Law on Tax Administration No. 21/2012/QH13 on November 20, 2012;

Pursuant to the Government’s Decree No. 209/2013/ND-CP on December 18, 2013 detailing and guiding the implementation of some articles of the Law on value added tax;

Pursuant to the Government’s Decree No. 83/2013/ND-CP on July 22, 2013 detailing the implementation of some articles of the Law on Tax Administration and Law amending and supplementing a number of articles of the Law on Tax Administration;

Implementation of the Government’s Resolution No. 63/NQ-CP on August 25, 2014 on a number of tax measures to solve difficulties and problems, promote the development of enterprises;

At the request of the Head of Tax Policy Department,

Minister of Finance issued Circular guiding extension procedures for tax payment and value added tax refund deadline on machinery and equipment imported to create fixed assets of investment projects.

**Article 1. Scope of adjustment**

Newly established enterprises from investment projects are in the investment phase but not yet in operation, operating enterprises have investment projects (building new production lines, expansion of scale, renovation of technology, improvement of ecological environment, improvement of production capacity) directly importing or mandating to import machinery and equipment to create fixed asset forinvestment projects that are objectively troubled about finance: no funds for payment of value added tax (VAT) at import phase; loans from commercial banks to import machinery and equipment for manufacturing & business; if the customs clearance of cargo cannot be done, it will cause major damage due to suspension, extension of project investment & implementation period,  the enterprises may choose to apply for extension for import VAT payment and refund of VAT under the guidance in this Circular if the enterprises meet the following conditions:

a) The enterprises make the registration of tax payment under deduction method, The enterprises have been issued business registration certificates or investment certificates, the investment licenses(practice licenses); have the seal in accordance with law, book keeping, accounting records in accordance with the law on accounting; have deposit accounts at banks in the corporate tax code;

b) The total value of imports of machinery and equipment for creation of fixed assets is VND 100 billion or more;

c) Investment Projects of production, trading of goods and services subject to VAT.

2. Machinery and equipment imported to create fixed assets of investment projects are not under the adjustment scope of this Circular, including machinery and equipment as fixed assets used exclusively production of weapons, equipment for national defense and security; fixed assets, machinery and equipment of the credit institutions, enterprises of reinsurance, life insurance, securities, clinics, health care, training facilities; civil aircraft, yachts not used for transporting goods, passengers, tourism, hotel.

**Article 2. Extension for paying import tax and VAT**

1. Enterprises specified in Article 1 of this Circular shall be extended for VAT, import tax payment deadline for machinery and equipment to be imported to create fixed assets of investment projects in time for 60 days as from expiry of tax payment as prescribed, the tax payment extension will apply from the first shipments of imports arrived at the port, its value is less than VND 100 billion. Cargo clearance is done when the customs authorities completes the actual test.

2. Document for tax payment extension:

a) A written request for payment extension of VAT (01 original), stating: (1) reasons for the tax payment extension of VAT for machinery and equipment to be imported to create fixed assets; (2) undertaking to make accurate declaration; (3) commitment and planning to pay the tax amount proposed for extension.

Where cargoes are imported in multiple shipments, for the first shipment to be sent together with the list of cargoes imported proposed for extension according to form No. 07 attached Appendix II to the Circular No. 128/2013/TT-BTC on September 10, 2013 of the Ministry of Finance guiding customs procedures; inspection and supervision; export tax, import tax and tax management for exports and imports, in which the headline "The list of cargoes is exempted from import tax" replaced by "List of cargoes are applied for payment extension of VAT at the import phase ", line" 7. Period expected to end import duty-free cargoes "replaced by" 7. Period expected to end import cargoes applied for VAT payment extension "(submitted 02 originals of the list) together with 02 tracking slips, back deduction under the form 10 in Appendix II issued together with Circular No. 128/2013/TT-BTC.

If the tax amount proposed for extension belongs to various customs declaration of imported cargoes, the written request to extend should list such customs declarations.

b) Tax return document of VAT amount applied for extension (01 copies);

c) The purchase contracts of cargoes are proposed for VAT payment extension, where there are many contracts, all contracts are submitted in one (01 copy);

d) The written approval of the project or investment plans: In case the investment certificate is issued by the state authority, the investment certificate shall be submitted; for the absence of the investment certificate, a document approved by the Board of Directors, or by the shareholders' meeting, or by the Director in accordance with the authority stated in the corporate charter will be submitted along with the registration of investment registration and the receipt of the receiving agency of the investment project document (01 copy);

Where machinery and equipment to be imported to create fixed assets have been subject to extension, both are exempt from import duties as prescribed by the law on investment, Law on importtax, the documents and procedures for extension of VAT payment are done as same as the documents, procedures for import tax exemption as stipulated in Article 102 of Circular No. 128/2013/TT-BTC. The papers are required for all document for tax payment extension and documents for tax exemption, just submit right quantity of papers required for the tax exemption.

3 Sequence for tax payment extension:

a) Receipt of documents:

a.1) If the extension document is submitted directly to the customs authority, the customs officer receives and stamps to receive the documents, time of receiving documents, noting the number of papers in the documents.

a.2) In case of renewal documents are sent by post, the customs officer stamps to receive the documents and notes the date to receive the documents and records in the correspondence book of the customs authority.

a.3) If the documents for extension are submitted via electronic transactions, the receipt, inspection and acceptance of extension documents done by the customs authority through a system of electronic data processing.

b) Document processing:

Where taxpayers have sent the extension document, but they have not been sufficient as required, within 01 (a) working day from the date of receipt of documents, the customs authorities shall notify in writing the taxpayers to complete the documents.

The taxpayers must supplement the documents within 03 (three) working days from the date of receipt of the customs’ authority notification on document supplementation.

If the extension documents are full, accurate, conformed to regulations, the customs authority must notify in writing of the extension agreed to taxpayers within 03 (three) working days from the date of receipt of full documents.

c) Responsibility for extension:

c.1) The Director of Customs Department is responsible for providing extension for the cases the taxpayer apply for tax extension but tax amount for extension arises in a Customs Branches.

c.2) The Director of Customs Department is responsible for providing extension for the cases the taxpayer apply for tax extension but tax amount for extension arises in a Customs Branches in the same Customs Department.

c.3) Director of General Customs Department shall extend to cases where taxpayers apply for tax extension, but the tax amount for extension arises in various Customs Branches.

**Article 3. Procedures and sequences of VAT refund**

1. Tax refund document:

a) Written request for tax refund in the form No. 01/DNHT issued along with Circular No. 156/2013 /TT-BTC on November 6, 2013 of the Ministry of Finance guiding the implementation of some articles of the Law on Tax Administration; Law amending and supplementing a number of articles of the Law on Tax Administration and the Government’s Decree No. 83/2013/ND-CP on July 22, 2013, stating the reason for refund request in accordance with guidance provided this Circular (stating Circular number), the document has not contained vouchers paying VAT in the import phase.

b) The list of customs declarations of imported cargoes stamped certification by the customs authority in the form No. 01-1/DNHT issued along with the Circular No. 156/2013/TT-BTC, which clearly sent together with a written request for tax refunds in the form No. 01/DNHT and the noting column indicates that "vouchers paying VAT in the import phase have not been submitted yet".

Enterprises are responsible before the law for the validity, legality and accuracy of records, documents, invoices and other documents related to the request for tax refund sent to the tax authority.

2. Sequence of tax refunds:

a) Submitting and receiving tax refund document:

Enterprises up and send documents refunded to the tax authority, vouchers paying VAT in the import phase have not been included in the document yet.

Where tax refund documents are submitted directly to the tax authority, tax officials receive and stamp to receive the tax refund documents, record the time receiving the documents, take note the number of papers in the documents.

Where the tax refund documents are sent by postal, the tax officials stamp to receive the tax refund tax refund dossier and record in the clerical book of the tax authority.

Where tax refund documents are submitted through electronic transactions, the receipt, inspection, acceptance of tax refund documents are done by the tax authority through a system of electronic data processing.

b) Handling of tax refunds:

b.1) If a taxpayer filed the tax refund documents, but the documents are not full as required, within 02 (two) working days from the time of receiving the documents, the tax authority must notify in writing to taxpayers to complete the tax refund documents.

b.2) If the tax refund documents are adequate, accurate and conformed to regulations, the tax authority has the responsibility to consider and examine the enterprise’s tax refund documents in accordance with the VAT refund sequence.

b.3) The maximum period of 05 (five) working days from the date of receipt of the complete tax refund documents, the tax authority should notify taxpayers of the results of reviewing and determining that the tax refund documents have been complete and eligible and ask the taxpayers to submit vouchers paying VAT in the import phase to the tax authority for tax refund decision prior to inspection.

b.4) Within 03 (three) working days from receipt of payment vouchers of VAT for imports, the tax authority is responsible for collating the tax payment vouchers with the data declared in the enterprise’s tax refund documents and making the decision for tax refund. Where paid VAT noted in the voucher is lower than the original tax amount proposed for a refund, the tax amount which is refunded will be the paid tax amount noted in the tax payment voucher; Where paid VAT noted in the voucher is more than the original tax amount proposed for a refund, the tax amount which is refunded will be the original tax amount proposed for a refund.

**Article 4. Enforcement**

1. This Circular takes effect as of October 27, 2014.

If the enterprise which is the object prescribed in Article 1 of this Circular has the customs declaration of imported goods registered before this Circular takes effect, but the tax payment deadline is not in due as prescribed in Clause 11, Article 1 of the Law amending and supplementing a number of articles of the Law on tax Administration, the unpaid tax will be extended and tax refund shall be applied under the guidance in this Circular.

2. If VAT refund is not mentioned in this Circular, it shall be implemented in accordance with the current legislation.

During the implementation process, if units, enterprises have any questions, please inform the Ministry of Finance for review and settlement. /.

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