

**LAW
ON
PERSONAL INCOME TAX**

**National Assembly of the
Socialist Republic of Vietnam
Legislature XII, 2nd Session
(21 November 2007)**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10 passed by Legislature X of the National Assembly at its 10th Session on 25 December 2001;

The National Assembly hereby promulgates the *Law on Personal Income Tax*.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates taxpayers, taxable income, tax exempt income, reduction of tax and the basis for calculating personal income tax.

Article 2 *Applicable entities*

1. *Personal income taxpayer* means any resident individual with taxable income as stipulated in article 3 of this Law arising either within or outside the territory of Vietnam, or any non-resident individual with taxable income as stipulated in article 3 of this Law arising within the territory of Vietnam.
2. *Resident individual* means any person satisfying one of the following conditions:
 - (a) Being present in Vietnam for a period of one hundred and eighty-three (183) days calculated within one western calendar year or within twelve (12) consecutive months from the date of entry into Vietnam;
 - (b) Having a regular residential location in Vietnam being a residential location for which permanent residence has been registered or a property rented pursuant to a lease for a term for residential purposes.
3. *Non-resident individual* means any person not satisfying the conditions stipulated in clause 2 of this article.

Article 3 *Taxable income*

Income which is subject to personal income tax comprises the following types of income, excluding tax exempt income as stipulated in article 4 of this Law:

1. Business income, comprising:
 - (a) Income from activities of production and business in goods and services;
 - (b) Income from independent professional activities of individuals with a licence or practising certificate pursuant to law.
2. Income being salaries and wages, comprising:
 - (a) Salaries and wages, and items in the nature of salaries and wages.
 - (b) Allowances and subsidies, excluding the following: allowances and subsidies stipulated by law being preferential treatment for people with achievements; national defence and security allowances; allowances for toxicity and danger applicable to trades or work at working locations with toxic or dangerous elements; allowances to attract labour and regional allowances as stipulated by law; subsidies being one-off payments for difficult situations, for employee accidents or for occupational disease, and on the birth or adoption of a child; subsidies due to decrease in ability to work, being one-off payments on retirement, monthly subsidies, and retrenchment or loss of work subsidies in accordance with the *Labour Code*; other subsidies paid by social insurance; and subsidies to resolve social evils.
 - (c) Remuneration in all forms.
 - (d) Money received from participation in business associations, on boards of management, inspection committees, management committees, and from other organizations.
 - (dd) Other benefits which the taxpayer receives whether or not in monetary form.
 - (e) Bonuses, excluding the following: monetary awards attached to titles bestowed by the State; monetary awards attached to national and international awards; monetary awards for technical improvements, inventions and innovations recognized by State authorities; and monetary awards for detecting and reporting breaches of law to the State authorities.
3. Income from capital investments, comprising:
 - (a) Interest from lending.
 - (b) Share dividends.
 - (c) Income from capital investments in any other form, excluding income being Government bonds' interest.
4. Income from transfers, comprising:
 - (a) Income from transfer of capital portion in an economic organization.
 - (b) Income from transfer of securities.

- (c) Income from transfer of capital in all other forms.
- 5. Income from real property transfers, comprising:
 - (a) Income from transfer of a land use right and assets attached to the land.
 - (b) Income from transfer of ownership of or use right to residential housing.
 - (c) Income from transfer of a lease right to land or water surfaces.
 - (d) Other items of income received from real property transfers.
- 6. Income being winnings or prizes, comprising:
 - (a) Lottery winnings.
 - (b) All forms of promotional prizes.
 - (c) Winnings from all forms of betting and casino gambling.
 - (d) Winnings from games and competitions with prizes and all others forms of winnings.
- 7. Royalties, comprising:
 - (a) Income from transfer of, including transfer of use rights to, intellectual property objects.
 - (b) Income from technology transfer.
- 8. Income from franchises.
- 9. Income being inheritance of securities, of capital portion in an economic organization or business establishment, of real property or other assets for which ownership or use rights must be registered.
- 10. Income being receipt of a gift of securities, of capital portion in an economic organization or business establishment, of real property or other assets for which ownership or use rights must be registered.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 4 *Income which is tax exempt*

[The following income shall be tax exempt:]

- 1. Income from real property transfers as between husband and wife; as between parents and children, including foster parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
- 2. Income from transfer of residential housing [and/or] rights to use residential land and the assets attached to the land by an individual who owns only one residential house [or] residential land block.
- 3. Income from the value of a land use right of an individual to whom the State allocated such land.

4. Income being receipt of an inheritance or gift of real property as between husband and wife; as between parents and children, including foster parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
5. Income of a family household or individual directly engaged in agricultural production, forestry, salt mining, breeding animals or cultivating crops, or aquaculture where the produce has not yet been processed into other products or has only been preliminarily processed.
6. Income from conversion of agricultural land by a family household or individual to whom the State allocated such land for production.
7. Income being interest on money deposited at a credit institution, and interest from life insurance policies.
8. Income being foreign currency remitted by overseas Vietnamese.
9. Income being that part of night shift or overtime salary which is higher than the day shift or normal working hours salary stipulated by law.
10. Pensions paid by social insurance.
11. Income being scholarships, comprising:
 - (a) A scholarship received from the State Budget;
 - (b) A scholarship received from a domestic or foreign organization pursuant to its program to assist and encourage study.
12. Income being compensation payments from life and non-life insurance contracts, compensation for labour accidents, State compensation payments and other compensation payments paid pursuant to law.
13. Income received from charitable funds which the competent State authority permits to be established or which it recognizes, and which are for charitable or humanitarian purposes and not for profit-making purposes.
14. Income received from foreign aid sources for charitable or humanitarian purposes in both Government and non-Government forms approved by the competent State authority.

Article 5 *Reduction of tax*

Taxpayers who meet difficulties due to natural disaster, war, accident, serious disease or illness which affects their ability to pay tax shall be considered for a reduction of tax corresponding to the amount of their loss but not to exceed the amount of tax payable.

Article 6 *Conversion of taxable income into Vietnamese dong*

1. Taxable income received in foreign currency must be converted into Vietnamese dong at the average trading exchange rate on the foreign currency market published by the State Bank as at the time the income arises.

2. Taxable income received in kind¹ must be converted into Vietnamese dong on the basis of the market price of such products or services or of products or services of the same or similar type as at the time the income arises.

Article 7 *Tax calculation period*

1. The period for calculating tax payable by resident individuals shall be regulated as follows:
 - (a) Tax on business income and income being salaries and wages shall be calculated annually.
 - (b) Tax on income from capital investments, on income from transfers excluding transfer of securities; on income from real property transfers; on winnings or prizes; on royalties; on income from franchises; and on income being an inheritance or gift shall be calculated on each occasion such income arises.
 - (c) Tax on income from transfer of securities shall be calculated either on each occasion or shall be calculated annually. An individual who applies the annual tax calculation period must register with the tax office at the beginning of a year.
2. Tax payable by non-resident individuals shall be calculated on each occasion income arises, applicable to all types of taxable income of non-resident individuals.

Article 8 *Tax management and tax refund*

1. Tax registration, declaration, deduction and payment; tax finalization and tax refund; dealing with breaches of the law on tax; and tax management methods shall be implemented in accordance with the *Law on Tax Management*.
2. Individuals shall be entitled to a tax refund in the following circumstances:
 - (a) The amount of tax paid was higher than the amount of tax payable.
 - (b) An individual has already paid tax but assessable income is below the threshold at which tax was payable.
 - (c) In other circumstances pursuant to a decision of the authorized body.

Article 9 *Application of international treaties*

If an international treaty of which the Socialist Republic of Vietnam is a member contains provisions on personal income tax which are different from those in this Law, then the provisions of such international treaty shall apply.

¹ Allens Arthur Robinson footnote: The literal translation is "income received other than in monetary form".

CHAPTER II

Basis of Tax Calculation Applicable to Resident Individuals

Section 1

Determination of Taxable Income and Assessable Income

Article 10 *Taxable income from business*

1. Taxable income from business shall be fixed as turnover less reasonable expenses related to creation of such taxable income within any one tax calculation period.
2. *Turnover* means the entire monetary receipts from the sale of goods, from processing fees, from commission and from providing goods and services and arising within the tax calculation period from activities of production and business in goods and services.

The time for fixing turnover shall be either the time ownership of goods was transferred [or] when services were completed [on the one hand], or the time the goods sale invoice or the invoice for provision of the services was formulated [on the other hand].

3. Reasonable expenses related to creation of taxable income from business within any one tax calculation period shall comprise:
 - (a) Salaries, wages, remuneration and other expenses paid to employees.
 - (b) Cost of raw materials, supplies, fuel, power, goods used in production and business, and cost of services purchased externally.
 - (c) Depreciation of, and costs for maintaining and servicing fixed assets used in production and business.
 - (d) Payment of interest on loans.
 - (e) Management expenses.
 - (f) Taxes, fees and charges which are mandatory by law and which are included in expenses.
 - (g) Other expenses related to creation of the income.
4. A determination of turnover and expenses shall be based on the fixed levels, standards, regimes, source documents and accounting books stipulated by law.
5. The taxable income of each individual jointly participating with others in business for which there is only one business registration shall be determined on one of the following principles:
 - (a) Taxable income shall be calculated as a ratio of each individual's capital contribution as stipulated in the business registration [documents];
 - (b) Taxable income shall be calculated in accordance with the agreement between such participants as stipulated in the business registration [documents];

- (c) Taxable income shall be calculated as an average sum of income per person if the business registration [documents] do not certify capital contribution ratios or if there is no agreement between the participants on distribution of income.

- 6. In the case of business people who do not implement the regime on accounting, invoices and source documents and for whom it is not possible to determine turnover and expenses and taxable income, the tax office shall have authority to fix an amount of turnover and a taxable income ratio in order to fix taxable income appropriate to each trade and line of business and in accordance with the principles, order and procedures stipulated in the *Law on Tax Management*.

Article 11 *Taxable income being salaries and wages*

- 1. Taxable income being salaries and wages shall be fixed as the total income as stipulated in article 3.2 of this Law which a taxpayer receives within any one tax calculation period.
- 2. The time for fixing taxable income being salaries and wages shall be the time when the income-paying entity pays such income to the taxpayer or when the taxpayer receives such income.

Article 12 *Taxable income being income from capital investments*

- 1. Taxable income being income from capital investments shall be the total income as stipulated in article 3.3 of this Law which a taxpayer receives within any one tax calculation period.
- 2. The time for fixing taxable income being income from capital investments shall be the time when the income-paying entity pays such income to the taxpayer or when the taxpayer receives such income.

Article 13 *Taxable income from transfers*

- 1. Taxable income from a transfer shall be fixed as equal to the selling price, less the purchase price plus reasonable expenses related to creation of income from such transfer.
- 2. In a case where it is not possible to fix the purchase price plus reasonable expenses of a transfer of securities, then taxable income shall be fixed as the selling price of the securities.
- 3. The time for fixing taxable income from a transfer shall be the time when the transfer transaction was completed as stipulated by law.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 14 *Taxable income from real property transfers*

- 1. Taxable income from a real property transfer shall be fixed as equal to the price at which the real property was transferred on each occasion of a transfer, less the purchase price of the real property plus relevant expenses, and specifically as follows:
 - (a) The transfer price of the real property shall be the price in the contract of transfer as at the time of transfer;
 - (b) The purchase price of the real property shall be the contract price as at the time of purchase;
 - (c) Relevant expenses which are deductible shall be based on source documents and vouchers stipulated by law, and shall include all types of fees and charges payable by law relating to the land use right; costs of improving the land, costs of improving the housing, and costs of

levelling the land surface; costs of investment and construction of the residential housing, infrastructure and buildings and engineering works on the land; and other costs directly related to the real property transfer.

2. In a case where it is not possible to fix the purchase price plus expenses related to a transfer, taxable income shall be fixed as the transfer price.
3. The Government shall issue regulations on the principles and methods for fixing the transfer price of real property in a case where it is not possible to determine the transfer price or where the transfer price of a land use right as recorded in a contract is less than the land price stipulated by the provincial people's committee and effective as at the time of the transfer.
4. The time for determination of taxable income from a real property transfer shall be the time at which the contract of transfer takes effect in accordance with law.

Article 15 *Taxable income from winnings or prizes*

1. Taxable income from winnings shall be that part of the prize which exceeds ten million (10,000,000) dong which the taxpayer receives on each occasion of winning.
2. The time for determining taxable income from winnings shall be the time when the income-paying entity pays such income to the taxpayer.

Article 16 *Taxable income from royalties*

1. Taxable income from royalties shall be that part of the income which exceeds ten million (10,000,000) dong which the taxpayer receives when transferring an intellectual property object or the right to use such object or when transferring technology, pursuant to each contract.
2. The time for determining taxable income from royalties shall be the time when the income-paying entity pays such income to the taxpayer.

Article 17 *Taxable income from franchises*

1. Taxable income from a franchise shall be that part of the income which exceeds ten million (10,000,000) dong which the taxpayer receives pursuant to each franchise contract.
2. The time for determining taxable income from a franchise shall be the time when the income-paying entity pays such income to the taxpayer.

Article 18 *Taxable income from an inheritance or gift*

1. Taxable income from an inheritance or a gift shall be that part of the value of the assets inherited or received as a gift which exceeds ten million (10,000,000) dong which the taxpayer receives on each occasion such income arises.
2. The time for determining taxable income shall be regulated as follows:
 - (a) In the case of an inheritance, it shall be the time when the taxpayer receives the inheritance;
 - (b) In the case of a gift, it shall be the time when the donor pays such income to the taxpayer or when the taxpayer receives such income.

Article 19 *Deduction for family circumstances*

1. Deduction for family circumstances means the amount of money deductible from taxable income prior to assessing business income [and/or] income being salaries and wages of taxpayers who are resident individuals. Deductions for family dependants shall comprise the following two components:
 - (a) A level of deduction applicable to taxpayers being four million (4,000,000) dong per month (forty eight million dong per year);
 - (b) A level of deduction for each dependant at one point six million (1,600,000) dong per month.
2. The level of deduction for dependants shall be determined on the principle that each dependant may only be assessed for deduction on one occasion² from [taxable income of] one taxpayer.
3. Dependants means people whom the taxpayer has the responsibility to rear or care for, and comprise:
 - (a) Children who are still minors; children who are handicapped [and/or] unable to work;
 - (b) Individuals who do not receive income or who receive income which does not exceed the stipulated threshold comprising a child of full age who is currently studying at a university, college, specialized secondary school or who is undergoing vocational training; a spouse who is unable to work; a parent above the working age or who is unable to work; and any other feeble person whom the taxpayer directly rears or cares for.

The Government shall provide regulations on the income threshold and on declaration for the purpose of determining dependants for whom deductions are allowable.

Article 20 *Deductions for contributions to charitable and humanitarian funds*

1. Contributions to charitable and humanitarian funds shall be deductible from income prior to assessing business income [and/or] income being salaries and wages of taxpayers who are resident individuals as follows:
 - (a) Contributions to any institution or establishment which raises or cares for children in an especially difficult situation, for disabled people, or for elderly feeble people;
 - (b) Contributions to charitable, humanitarian and study promotional funds.
2. The institutions, establishments and funds stipulated in sub-clauses (a) and (b) of clause 1 of this article must be permitted to be established or must be recognized by the competent State authority, and must operate for charitable, humanitarian or study promotional purposes and not for profit making purposes.

Article 21 *Assessable income*

1. Assessable income in the case of business income [and/or] income being salaries and wages shall be the total taxable income stipulated in articles 10 and 11 of this Law, less any contributions for social insurance, medical insurance, and professional indemnity insurance in the case of trades and

² Allens Arthur Robinson footnote: It seems likely that implementing guidelines will qualify this to "on one occasion within any one tax calculation period".

lines of business for which such insurance is compulsory, less the deductions stipulated in articles 19 and 20 of this Law.

2. Assessable income from income from capital investments, transfers, property transfers, winnings or prizes, royalties, franchises, inheritances and gifts shall be the taxable income as stipulated in articles 12, 13, 14, 15, 16, 17 and 18 respectively of this Law.

Section 2

Tax Scales

Article 22 *Scale of progressive tax tariff on each portion of income*

1. The scale of progressive tax tariff on each portion of income shall apply to assessable income as stipulated in article 21.1 of this Law.
2. The scale of progressive tax tariff on each portion of income shall be as follows:

Tax Bracket	Portion of Annual Assessable Income (million dong)	Portion of Monthly Assessable Income (million dong)	Tax Rate (%)
1	Up to 60	Up to 5	5
2	Over 60 to 120	Over 5 to 10	10
3	Over 120 to 216	Over 10 to 18	15
4	Over 216 to 384	Over 18 to 32	20
5	Over 384 to 624	Over 32 to 52	25
6	Over 624 to 960	Over 52 to 80	30
7	Over 960	Over 80	35

Article 23 *Scale of tariff on total income*

1. The scale of tariff on total income shall apply to assessable income as stipulated in article 21.2 of this Law.
2. The scale of tariff on total income shall be as follows:

Assessable Income	Tax Rate (%)
(a) Income from capital investments:	5
(b) Income from royalties and franchises:	5
(c) Income from winnings or prizes:	10
(d) Income from inheritances and gifts:	10
(dd) Income from transfers stipulated in article 13.1:	20
Income from transfers stipulated in article 13.2:	0.1
(e) Income from real property transfers stipulated in article 14.1:	25
Income from real property transfers stipulated in article 14.2:	2

Article 24 *Responsibilities of income paying entities and responsibilities of taxpayers being resident individuals*

1. The responsibility to declare, deduct and pay tax, and to conduct tax finalization shall be regulated as follows:
 - (a) Income-paying entities shall be responsible to declare, deduct and pay tax into the State Budget and to conduct tax finalization of all types of taxable income which they pay to taxpayers.
 - (b) Individuals with taxable income shall be responsible to declare and pay tax into the State Budget and to conduct tax finalization of the types of income as stipulated in the *Law on Tax Management*.
2. Income-paying entities shall be responsible to provide information in accordance with law about income and dependents of the taxpayers within the units for which they are responsible.
3. The Government shall provide regulations on the level of deductions for each type of income stipulated in clause 1 of this article.

CHAPTER III

Basis of Tax Calculation Applicable to Non-Resident Individuals

Article 25 *Tax applicable to business income*

1. Tax payable on business income of a non-resident individual shall be fixed as the turnover from activities of production and business stipulated in clause 2 of this article multiplied by the tax rate stipulated in clause 3 of this article.
2. *Taxable turnover* means the entire monetary receipts arising from the provision of goods and services including expenses which the purchaser of the goods and services pays on behalf of a non-resident individual which are not refundable.

If a contractual agreement excludes personal income tax, then the assessable turnover to be converted shall include all money received in any form by the non-resident individual from the provision of goods and services in Vietnam, irrespective of the location where the business activity was conducted.

3. Tax rates applicable to a sector or line of production and business shall be:
 - (a) One per cent (1%) to activities being business in goods.
 - (b) Five per cent (5%) to activities being business in services.
 - (c) Two per cent (2%) to activities being production, construction, transportation and other business activities.

Article 26 *Tax applicable to income from salaries and wages*

1. Tax payable on income from salaries and wages of a non-resident individual shall be fixed as the taxable income from salaries and wages stipulated in clause 2 of this article multiplied by the tax rate of twenty per cent (20%).
2. Taxable income from salaries and wages means the entire monetary salaries and wages which a non-resident individual receives from doing work in Vietnam, irrespective of the location where the income is paid.

Article 27 *Tax applicable to income from capital investments*

Tax payable on income from capital investments of a non-resident individual shall be fixed as the entire monetary receipt by a non-resident individual from a capital investment in an organization or individual in Vietnam multiplied by the tax rate of five per cent (5%).

Article 28 *Tax applicable to income from transfers*³

Tax payable on a transfer by a non-resident individual shall be fixed as the entire monetary receipt by such non-resident individual from a transfer of a capital portion in a Vietnamese organization or individual multiplied by the tax rate of zero point one per cent (0.1%), irrespective of whether the transfer was conducted in Vietnam or abroad.

Article 29 *Tax applicable to income from real property transfers*

Tax payable on a real property transfer in Vietnam by a non-resident individual shall be fixed as the transfer price multiplied by the tax rate of two per cent (2%).

Article 30 *Tax applicable to income being royalties and to income from franchises*

1. Tax payable on royalties of a non-resident individual shall be fixed as that part of the income which exceeds ten million (10,000,000) dong pursuant to each contract of transfer of an intellectual property object or of the right to use such intellectual property object or pursuant to each contract of technology transfer in Vietnam, multiplied by the tax rate of five per cent (5%).
2. Tax payable on income from a franchise of a non-resident individual shall be fixed as that part of the income which exceeds ten million (10,000,000) dong pursuant to each franchise contract in Vietnam, multiplied by the tax rate of five per cent (5%).

Article 31 *Tax applicable to income from winnings or prizes and from an inheritance or a gift*

1. Tax payable on winnings or a prize [or] from an inheritance or a gift of a non-resident individual shall be fixed as the taxable income as stipulated in clause 2 of this article multiplied by the tax rate of ten per cent (10%).
2. Taxable income from winnings or a prize of a non-resident individual means that part of the income which exceeds ten million (10,000,000) on each occasion of winning or receiving a prize in Vietnam; and [taxable] income from an inheritance or a gift means that part of the value of the assets inherited

³ Allens Arthur Robinson footnote: It is evident from the text of this article that it only refers to transfers stipulated in article 3.4(a) and not to transfers of securities mentioned in article 3.4 (b).

or received as a gift which exceeds ten million (10,000,000) dong on each occasion such income arises and which the non-resident individual receives in Vietnam.

Article 32 *Point of time for determining taxable income*

1. The point of time for determining taxable income in the case of income stipulated in article 25 shall be when the non-resident individual receives such income or when the sales invoice for the goods or provision of services was issued.
2. The point of time for determining taxable income in the case of income stipulated in articles 26, 27, 30 and 31 shall be when the income-paying entity in Vietnam pays such income to the non-resident individual, or when the non-resident individual receives such income from the income-paying entity abroad.
2. The point of time for determining taxable income in the case of income stipulated in articles 28 and 29 shall be when the contract of transfer takes effect.

Article 33 *Responsibilities of income paying entities and responsibilities of taxpayers being non-resident individuals*

1. Income-paying entities shall be responsible to deduct and pay tax into the State Budget each time it arises on taxable income items paid to taxpayers.
2. Taxpayers being non-resident individuals shall be responsible to declare and pay tax each time it arises on taxable income in accordance with the *Law on Tax Management*.

CHAPTER IV

Implementing Provisions

Article 34 *Effectiveness*

1. This Law shall be of full force and effect as from 1 January 2009.
2. The following are hereby repealed:
 - (a) Ordinance 35-2001-PL-UBTVQH10 on Income Tax of High Income Earners dated 19 May 2001 as amended by Ordinance 14-2004-PL-UBTVQH11 dated 24 March 2004.
 - (b) *The Law on Land Use Rights Transfer Tax* dated 22 June 1994 as amended by Law 17-1999-QH10 dated 21 December 1999.
 - (c) The provisions on corporate income tax applicable to individuals conducting production and business excluding private enterprises as stipulated in the *Law on Corporate Income Tax* No. 09-2003-QH11 dated 17 June 2003.
 - (d) Other provisions on personal income tax which are contrary to the provisions in this Law.
3. Items of income of individuals which are subject to tax incentives pursuant to legal instruments [effective] prior to the date of effectiveness of this law shall continue to enjoy such incentives.

Article 35 *Implementing guidelines*

The Government shall provide detailed regulations and guidelines for implementation of this Law.

This Law was passed by Legislature XII of the National Assembly of the Socialist Republic of Vietnam at its 2nd Session on 21 November 2007.

Chairman of the National Assembly

NGUYEN PHU TRONG