

PRIME MINISTER

**Decision No. 72/2013/QĐ-TTg of November 26, 2013,
prescribing mechanisms and financial policies
applicable to border-gate economic zones**

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

Pursuant to the Government's Decree No. 108/2006/ND-CP of September 22, 2006, detailing and guiding the implementation of a number of articles of the Investment Law;

Pursuant to the Government's Decree No. 29/2008/ND-CP of March 14, 2008, defining industrial parks, export processing zones and economic zones,

At the proposal of the Minister of Finance,

The Prime Minister promulgates the Decision prescribing mechanisms and financial policies applicable to border-gate economic zones.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decision prescribes mechanisms and financial policies applicable to border-gate economic zones.

Article 2. Subjects of application

This Decision applies to state management agencies, organizations and individuals involved in trading, investment, production and other business activities in border-gate economic zones.

Article 3. Interpretation of terms

In this Decision, the terms below are construed as follows:

1. Border-gate economic zones are economic zones formed in land border areas with international, main or bilateral border gates and established under the Prime Minister's decisions, including also Lao Bao special economic-commercial zone in Quang Tri province and Cau Treo international border-gate economic zone in Ha Tinh province.

2. Non-tariff areas of border-gate economic zones are geographical areas with identified boundaries and separated from the outside by solid fences (excluding Lao Bao special economic-commercial zone in Quang Tri province, and Cau Treo international border-gate economic zone in Ha Tinh province), which have entrances and gates to ensure the control by

customs and other functional bodies and customs offices supervising and inspecting commodities and vehicles entering and exiting the areas.

Non-tariff areas of border-gate economic zones include special economic-commercial zones, industrial-commercial zones, free-trade zones and zones under other names which are set up under the Prime Minister's decisions and have goods and service-trading and exchange relations between these zones and the outside regarded as export and import relations.

Chapter II

SPECIFIC PROVISIONS

Section 1

INVESTMENT AND CREDIT POLICIES

Article 4. Sources of state budget investment in infrastructure

1. Investment projects for construction of technical and social infrastructures of border-gate economic zones are financed by development investment capital sources of local budgets.
2. The central budget provides support for investment projects on border-gate economic zone infrastructures under the Prime Minister's Decision No. 60/2010/QĐ-TTg of September 30, 2010. Particularly in the 2013-2015 period, the support will represent at least 70% of the total capital sources from the central budget under annual plans for investment in the development of infrastructure systems of the border-gate economic zone selected for concentrated development investment under the plan approved by the Prime Minister.
3. The management, use and settlement of state budget capital supported for the construction of border-gate economic zone infrastructures comply with the law on management of capital construction investment, the State Budget Law and other relevant laws.

Article 5. Raised capital

1. Investment projects in border-gate economic zones may raise capital by issuing bonds in accordance with law:
 - a/ For Government-guaranteed corporate bonds: To comply with the Government's Decree No. 01/2011/ND-CP of January 5, 2011, on the issuance of government bonds, government-guaranteed bonds and local-administration bonds; enterprises must satisfy the conditions and comply with the Law on Management of Public Debts and guiding documents.
 - b/ For local-administration bonds: To comply with the Government's Decree No. 01/2011/ND-CP of January 5, 2011, on the issuance of

government bonds, government-guaranteed bonds and local-administration bonds.

c/ For corporate bonds: To comply with the Government's Decree No.90/2011/ND-CP of October 14, 2011, on the issuance of corporate bonds.

d/ All proceeds from the issuance of bonds are managed and used in accordance with law.

2. Foreign organizations and individuals and overseas Vietnamese may directly invest in border-gate economic zones in various forms, including Build-Operation- Transfer (BOT), Build-Transfer (BT), Build-Transfer-Operation (BTO) and public-private partnership forms.

3. Investment projects to construct technical infrastructure and social infrastructure facilities and projects to construct necessary public utility service facilities of border-gate economic zones are included in the list of projects calling for official development assistance (ODA) capital as provided by law.

4. Investment projects in border-gate economic zones may borrow capital of credit institutions and foreign bank branches and raise capital from domestic and foreign organizations and individuals in accordance with law.

Article 6. Capital from economic zone land funds

Provincial-level People's Committees may use revenues from land use levies and land rents in border-gate economic zones for investment in the construction of technical and social infrastructure facilities, and necessary utility service facilities for common use in border-gate economic zones, or create capital sources from ground clearance for investment in the development of border-gate economic zones in accordance with law.

Article 7. State credit capital

Investment projects in border-gate economic zones are entitled to investment credit and export credit policies prescribed in the Government's Decree No.75/2011/ND-CP of August 30, 2011, on state investment credit and export credit, and Decree No. 54/2013/ND-CP of May 22, 2013, on supplements to Decree No. 75/2011/ND-CP of August 30, 2011.

Section 2

TAX, CHARGE, FEE AND OTHER FINANCIAL POLICIES

Article 8. Enterprise income tax incentives

The enterprise income tax incentives for enterprises operating in border-gate economic zones comply with the Enterprise Income Tax Law and its guiding documents.

Article 9. Personal income tax incentives

1. Vietnamese and foreigners directly working or involved in production and business activities in border-gate economic zones, having incomes from their jobs and production and business activities in border-gate economic zones and being liable to personal income tax under the Personal Income Tax Law are eligible for 50% reduction of payable tax amounts.
2. The procedures for personal income tax registration, declaration, payment, settlement and refund are as prescribed by law.

Article 10. Value-added tax incentives

1. Commodities and services exported abroad from non-tariff areas of border-gate economic zones are not subject to value-added tax.
2. Commodities and services produced and consumed in non-tariff areas of border-gate economic zones are not subject to value-added tax.
3. Commodities and services imported from abroad into and consumed in non-tariff areas of border-gate economic zones are not subject to value-added tax.
4. Commodities and services exported from the functional quarters in border-gate economic zones or from the Vietnamese inland into non-tariff areas of border-gate economic zones are eligible for the value-added tax rate of 0%, except the following cases:
 - a/ Commodities and services ineligible for the value-added tax rate of 0% prescribed in Clause 1, Article 8 of the Value-Added Tax Law and its guiding documents.
 - b/ Commodities not going through customs procedures when being exported from the functional quarters in border-gate economic zones and from the Vietnamese inland into non-tariff areas not separated from the outside by solid fences.

The Ministry of Finance shall promulgate a list of commodities not going through customs procedures and a list of commodities to be inspected before refund of value-added tax, applicable to commodities and services defined in this Clause, based on the suggestions of the People's Committees of the provinces where border-gate economic zones are located.

5. Commodities and services introduced from non-tariff areas of border-gate economic zones for consumption in the functional quarters of border-

gate economic zones or in the Vietnamese inland are subject to value-added tax as provided by law.

Article 11. Excise tax

Excise tax-liable commodities and services, which are imported from abroad into non-tariff areas of border-gate economic zones, or exported from other functional quarters in border-gate economic zones or from the Vietnamese inland into non-tariff areas of border-gate economic zones, or imported from non-tariff areas of border-gate economic zones into the Vietnamese inland or other functional quarters in border-gate economic zones, or exported abroad from non-tariff areas of border-gate economic zones comply with the Excise Tax Law and its guiding documents.

Article 12. Export duty and import duty incentives

1. Commodities imported for the creation of fixed assets of investment projects in border-gate economic zones (excluding non-tariff areas) are exempt from import duty, including:

a/ Equipment and machinery;

b/ Special-use means of transport in technological lines, which cannot be produced at home yet; means of transport to work for workers, including cars of 24 seats or more and waterway craft;

c/ Components, details, detached parts, spare parts, fittings, molds and accompanying accessories for synchronous assembly with equipment, machinery and special-use means of transport defined at Points a and b of this Clause;

d/ Materials and supplies which cannot be produced at home, which are used for the manufacture of equipment and machinery in technological lines or for the manufacture of Components, details, detached parts, spare parts, fittings, molds and accompanying accessories for synchronous assembly with equipment, machinery and special-use means of transport defined Point a of this Clause;

dd/ Building materials which cannot be produced at home yet.

The exemption of import duty for commodities defined in this Clause also applies to cases of project expansion and technology replacement and renewal.

2. Commodities exported abroad from non-tariff areas of border-gate economic zones or imported from abroad into non-tariff areas of border-gate economic zones and used only in non-tariff areas, and commodities transported from one non-tariff area to another are not subject to export duty and import duty.

3. Commodities produced, processed, reprocessed or assembled in non-tariff areas of border-gate economic zones and exported abroad are exempt from export duty.

4. Building materials which are transported from the Vietnamese inland or from other functional quarters in border-gate economic zones into non-tariff areas of border-gate economic zones for construction, repair and maintenance of common technical infrastructure and social infrastructure in non-tariff areas are exempt from export duty. Commodities and services exported from the Vietnamese inland and used only in Lao Bao special economic-commercial zone, Quang Tri province, and Cau Treo international border-gate economic zone, Ha Tinh province, are exempt from export duty.

5. Raw materials, supplies and components which cannot be produced at home yet and are imported for production under investment projects in border-gate economic zones (except projects on production of excise taxable products, electronic, electro-refrigerating products and other goods items decided by the Prime Minister are exempt from import duty for 5 (five) years from the date of commencement of production.

The identification of raw materials, supplies and components not produced at home yet serving as a basis for tax exemption is based on the lists promulgated by the Ministry of Planning and Investment.

6. Commodities produced, processed, reprocessed or assembled at non-tariff areas without using imported raw materials and components, when imported into the Vietnamese inland, are exempt from import duty; for those using imported raw materials and components, when imported into Vietnamese inland, they are subject to import duty only on the quantities of used imported raw materials and components (except commodities produced, processed, reprocessed or assembled under investment projects capitalized at over VND 20 billion in Cau Treo international border-gate economic zone, Ha Tinh province, and Lao Bao special economic-commercial zone, Quang Tri province, with the use of imported raw materials and components, which are exempt from import duty for five years from the date of commencement of production, when they are imported into the Vietnamese inland). The payable import duty on imported raw materials and components constituting the commodities imported into the Vietnamese inland are determined as follows:

a/ If production and business organizations or individuals in non-tariff areas that import commodities into the inland, have registered with customs offices the lists of goods imported for use as raw materials or components for the production of goods to be imported into the inland and the norms of raw materials and components used for the production of imports before

importing them into the Vietnamese inland, the payable import duty is determined on the basis of quantities and tax rates of goods items imported into the Vietnamese inland and the tax calculation value calculated on the quantities of imported raw materials and components which constitute the commodities imported into the Vietnamese inland;

b/ If the tax calculation value cannot be determined under Point a of this Clause, the customs offices shall assess the tax on the quantities of raw materials and components constituting the goods items imported into the Vietnamese inland according to the law on tax administration and customs valuation.

7. Goods imported into non-tariff areas of border-gate economic zones, when being sold into the Vietnamese inland under relevant regulations, are subject to import duty as prescribed.

8. Commodities produced, processed, reprocessed or assembled in non-tariff areas in border-gate economic zones, which are eligible for preferential or special preferential import duty rates, are eligible for such import duty rates according to the law on export duty and import duty.

Article 13. Land rent and water surface rent incentives

1. Investment projects in border-gate economic zones are exempt from land rent and water surface rent under the Government's Decree No. 142/2005/ND-CP of November 14, 2005, on the collection of land rents and water surface rents, and Decree No. 121/2010/ND-CP of December 30, 2010, amending and supplementing a number of articles of Decree No.142/2005/ND-CP of November 14, 2005, specifically as follows:

a/ Land rent and water surface rent are exempt for investment projects in the sectors in which investment is especially encouraged.

b/ Land rent and water surface rent are exempt for 15 years after the construction is completed and works are put use, for investment projects in the sectors in which investment is encouraged.

c/ Land rent and water surface rent are exempt for 11 years after the construction is completed and works are put to use, for investment projects other than those defined at Points a and b, Clause 1 of this Article.

d/ The lists of sectors in which investment is especially encouraged and sectors in which investment is encouraged comply with the law on investment.

2. Domestic and foreign investors investing in Lao Cai international border-gate economic zone (Lao Cai province), Cau Treo international border-gate economic zone (Ha Tinh province), Lao Bao special economic-commercial zone (Quang Tri province), An Giang border-gate economic zone (An

Giang province), Moc Bai border-gate economic zone (Tay Ninh province), Bo Y international border-gate economic zone (Kon Tum province), Dong Dang-Lang Son border-gate economic zone (Lang Son province), Mong Cai border-gate economic zone (Quang Ninh province) and Dong Thap border-gate economic zone (Dong Thap province), when renting land or water surface, will, in addition the incentives prescribed in Clause 1 of this Article, enjoy the 70% reduction of land rent or water surface rent calculated according to land rent or water surface rent unit prices applicable in districts with lowest land rent and water surface rent in a province as provided by the provincial-level People's Committee from the year of expiration of the incentives stated in Clause 1 of this Article.

Article 14. Land use levy incentives

Investors who wish to use land in border-gate economic zones as production and business grounds and choose the form of land allocation with land use levy payment, will be allocated land by the State and pay land use levy; enjoy land use levy exemption and/or reduction under the Government's Decree No.198/2004/ND-CP of December 3, 2004, and Decree No.44/2008/ND-CP of April 9, 2008, on the collection of land use levy and Decree No.120/2010/ND-CP of December 30, 2010, amending and supplementing a number of articles of Decree No.198/2004/ND-CP of December 3, 2004, specifically as follows:

1. To exempt land use levy for projects in the sectors eligible for special investment incentives.
2. To reduce 50% of payable land use levy for projects in the sectors eligible for investment incentives.
3. To reduce 30 % of payable land use levy for investment projects other than those defined in Clauses 1 and 2 of this Article.
4. The lists of sectors eligible for special investment incentives and sectors eligible investment incentives comply with the law on investment.

Article 15. Charge and fee policies

1. Border-gate economic zone management Boards are authorized to collect certain kinds of charges and fees related to their state management activities, including:

a/ Investment appraisal charge and business registration fee, charge for provision of business registration information, for investment projects falling under their competence.

b/ Charges and fees related to the grant, re-grant, modification, supplementation and extension of permits for establishment of representative offices of foreign trade organizations and traders that open

their head offices in border-gate economic zones; the grant of business license for commodity trading and activities directly related to commodity trading for foreign-invested enterprises and foreign investors that invest in border-gate economic zones for the first time.

c/ Charges and fees related to the grant, re-grant, extension and withdrawal of work permits for foreigners and overseas Vietnamese working in border-gate economic zones; the grant of labor books to Vietnamese workers working in border-gate economic zones.

d/ Charges and fees related to the grant of certificates of origins of commodities produced in border-gate economic zones and other related permits and certificates in border-gate economic zones.

dd/ Charges and fees related to the certification of contracts, and documents on fixed assets in border-gate economic zones for related organizations.

2. Border-gate economic zone management boards shall elaborate charge and fee rates applicable in border-gate economic zones and submit them to competent agencies for promulgation in accordance with the law on charges and fees.

3. Charge and fee amounts directly collected by the border-gate economic zone management boards shall be partly re-allocated to them for paying expenses for collection work and addition to their operation funds in accordance with law.

Article 16. Policies on commercial operation and use of border-gate economic zone infrastructures

1. Investors having production and business projects in border-gate economic zones with the use of technical and social infrastructures therein shall pay infrastructure use levy.

2. Enterprises investing and dealing in socio-technical infrastructures of border-gate economic zones may organize:

a/ The management, commercial operation and collection of infrastructure use levy of investors in border-gate economic zones, for works built with their own investment under law.

b/ The collection of charges for the use of infrastructures (for means of transport entering and leaving the border gates), service facilities and other public-utility works in border-gate economic zones in accordance with the law on charges and fees, including:

- Charges collected from state-invested facilities and utility works, which are state budget revenues;

- Charges collected from facilities and utility works not invested by the State are non-state budget revenues.

The provincial-level People's Councils of localities where border-gate economic zones are located shall decide on specific charge rates and the management and use of charges for the use of facilities and utility works defined at Point b of this Clause under the guidance of the Ministry of Finance.

3. For common socio-technical infrastructures in border-gate economic zones other than those defined in Clause 2 of this Article, the border-gate economic zone management boards shall organize the management, commercial operation, repair and maintenance thereof and collect infrastructure use levy from investors in the zones at the charge rates set by provincial-level People's Committees for investment in the repair and maintenance thereof and the improvement of their service conditions, and manage them under law.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 17. Responsibilities of the border-gate economic zone management boards

The border-gate economic zone management boards have the competence and responsibility to perform the state management of activities of their border-gate economic zones according to this Decision and other relevant legal documents.

Article 18. Responsibilities of the provincial-level People's Committees of localities where border-gate economic zones are located

1. To direct the formulation of, and approve detailed plans on construction of border-gate economic zones and functional quarters in border-gate economic zones; to direct the appraisal of, and approve base designs of investment projects for development of infrastructures of functional quarters in border-gate economic zones under relevant regulations.

2. To direct the recovery of land and water surface areas, compensation, ground clearance, sedentary farming and resettlement and carry out procedures for lease or allocation of land in border-gate economic zones according to the land law and relevant laws.

3. To formulate plans for, and report to the provincial-level People's Councils for decision on, the use of local budgets for investment in technical and social infrastructure systems of border-gate economic zones according to the laws on investment and state budget and other relevant laws.

4. To submit to the provincial-level People's Councils for decision the charge rates and the management and use of charges for the use of facilities and public-utility works.
5. To prescribe conditions (investment capital scale, land areas used for duty-free commodity trading) and direct the management of the sale of duty-free goods to visitors in non-tariff areas, which are suitable to the local practical conditions, satisfying the provincial tourist development demands while ensuring strict management and preventing abuse of policies for smuggling and trade frauds.
6. To perform other tasks and exercise other powers for the state management of border-gate economic zones as prescribed law.

Article 19. Responsibilities of ministries and sectors

1. The Ministry of Planning and Investment, the Ministry of Finance and the Ministry of Industry and Trade shall manage and guide localities where border-gate economic zones are located in the implementation of policies prescribed in this Decision.
2. Other ministries and sectors shall, within the ambit of their respective functions, guide localities where border-gate economic zones are located in the implementation of this Decision.

Article 20. Implementation provisions

1. This Decision takes effect on January 15, 2014.
2. This Decision annuls:
 - a/ Decision No. 33/2009/QD-TTg of March 2, 2009, of the Prime Minister, promulgating mechanisms and financial policies applicable to border-gate economic zones;
 - b/ Decision No. 93/2009/QD-TTg of July 10, 2009, of the Prime Minister, amending and supplementing Clause 4, Article 21 of Decision No.33/2009/QD-TTg of March 2, 2009, of the Prime Minister, promulgating mechanisms and financial policies applicable to border-gate economic zones;
 - c/ Provisions on mechanisms and financial policies in the Regulations on operation of border-gate economic zones, non-tariff areas, in the Appendix to this Decision (*not translated*).
3. Where legal documents cited in this Decision are amended and supplemented or replaced, the provisions of the amending, supplementing or replacing documents will be applied.
4. Investment projects which have been granted investment licenses or investment certificates and currently enjoy the incentives higher than those

prescribed in this Decision, may further enjoy the incentives stated in their investment licenses or investment certificates for the remaining duration, if they fully satisfy the conditions for these incentives. If the incentives stated in their investment licenses or investment certificates are lower than those prescribed in this Decision, they will enjoy the incentives prescribed by this Decision for the remaining duration.

5. Regarding policies on duty-free goods sold to visitors in non-tariff areas of border-gate economic zones:

a/ The regulations on tax incentives for visitors in non-tariff areas of border-gate economic zones under the Prime Minister's decisions on the Regulations on operation of border-gate economic zones are valid for the value of no more than VND 1,000,000/person/day.

b/ Traders can sell duty-free goods to visitors in non-tariff areas only when they have shops included in the approved detailed plan on construction of functional quarters, and possess business licenses for sale of duty-free goods granted by competent agencies under regulations of the provincial-level People's Committees.

c/ The Ministry of Finance shall assume the prime responsibility for, and coordinate with related ministries and provincial-level People's Committees of localities where border-gate economic zones are located in:

- Prescribing a list of taxable goods on sale to visitors in non-tariff areas, including those liable to excise tax and commodities subject to quota-based management;
- Prescribing a list of goods to be taxed upon importation from abroad into non-tariff areas of border-gate economic zones;
- Formulating measures to manage, prevent, combat and handle acts of abusing tax incentives to gather and smuggle goods into the inland for illegal trading.

6. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of the People's Committees of provinces where border-gate economic zones are located, and related organizations and individuals shall implement this Decision.

Prime Minister

NGUYEN TAN DUNG