

Decree 50 Making Detailed Provisions for Implementation of the Law on Royalties

On 14 May 2010 the Government of Vietnam released Decree No. 50/2010/ND-CP providing detailed regulations and guidelines for implementation of a number of articles of the Law on Royalties (Decree 50).

Governing scope

Decree 50 guides the implementation of Articles 2, 5, 6, 7 and 9 of the Law on Royalties, regarding taxable objects, assessable natural resource output, taxable price, tax rates and exemption and reduction of tax respectively.

Taxable objects

The taxable objects comprise:

- Metallic minerals
- Non-metallic minerals
- Crude oil (meaning hydrocarbons in natural liquid state, asphalt, ozocerite and liquid hydrocarbons distilled or extracted from natural gas)
- Natural gas (meaning hydrocarbons in gaseous state produced from wells, including wet gas, dry gas, wellhead gas and residue gas after the extraction of liquid hydrocarbons from wet gas)
- Coal gas (meaning hydrocarbons with a major component of methane in a gaseous or liquid state, contained in coal seams or adjacent strata)
- Natural forest products comprising various kinds of plants and other natural forest products, except for animals and for anis, cinnamon and cardamom planted by taxpayers within limited areas of a natural forest allocated to such taxpayers for planting and protection
- Natural marine products, comprising sea plants and animals

- Natural water, comprising surface and underground water
- Natural swallow's nests
- Other natural resources for which the Ministry of Finance, after presiding over co-ordination with other relevant ministries and branches, will report to the Government for submission in turn to the Standing Committee of the National Assembly (SCNA) for its consideration and decision.

Assessable natural resource output

In the case of natural resources with an output of which the amount, weight or volume is ascertainable, the assessable natural resource output is the actual amount, weight or volume of the natural resource exploited within the tax assessment period.

In the case of exploited natural resources for which the amount, weight or volume of the natural resource actually exploited is not ascertainable because the resource contains many different substances or mixtures, then the assessable natural resource output is the amount, weight or volume of each substance collectable after screening and classification.

In the case of exploited natural resources which instead of being sold are used for production of other products, and the actual amount, weight or volume of the exploited natural resource is not directly ascertainable, then the assessable natural resource output is fixed on the basis of the volume of products produced within the tax assessment period plus a fixed rate of use of the natural resource based on one product unit.

In the case of natural water used in hydroelectricity production, the assessable natural resource output is

the quantity of power sold by the hydroelectricity generation establishment to the power purchaser in accordance with the contract of purchase and sale of power, or if there is no such contract, the quantity of power delivered and determined via the measuring system satisfying the measurement criteria of Vietnam and certified by the purchaser and seller or by the transferor and transferee.

In the case of natural resources which are exploited manually, over a dispersed area, or on an itinerant or irregular basis and the forecast natural resource output within any one year is valued at less than VND 200,000,000 (about USD 10,500), a natural resource output will be fixed for a season or for a tax assessment period for tax assessment purposes.

In the case of natural mineral water, natural thermal water and natural water used for industrial purposes, the assessable natural resource output is determined in cubic metres or in litres via the measuring system satisfying the measurement criteria of Vietnam. If the assessable output is not directly ascertainable via the measuring system satisfying the measurement criteria of Vietnam, then a natural resource output will be fixed for the tax assessment period.

Taxable price

Taxable price means the selling price of a product unit of the natural resource fixed by the entity exploiting it, excluding value added tax.

If the selling price of the natural resource is not ascertainable, the taxable price will be the actual selling price of a unit of the same type of resource (for example, a cubic metre of natural mineral water) in the regional market within the geographical area of the province in question, provided that it shall not be less than the taxable price decided by the provincial people's committee.

If the exploited natural resource contains many different substances, the taxable price will be fixed in accordance with the selling price of each substance and the concentration of each substance in the

exploited natural resource, but not less than the taxable price decided by the provincial people's committee.

The taxable price of natural water used in hydroelectricity production is the average selling price of the power commodity.

The taxable price of timber is the selling price at the place where the timber is handed over (store or yard where the timber is exploited). If such selling price is not ascertainable, the taxable price will be determined by the provincial people's committee.

The taxable price of any exploited natural resource not sold in Vietnam but exported will be the export price of a product unit of the natural resource (FOB); if the natural resource is both sold in Vietnam and also exported, then in the case of that part sold in Vietnam the taxable price will be the selling price of a product unit of the natural resource excluding value added tax, and in the case of that part exported the taxable price will be the export price.

The taxable price of crude oil, natural gas and coal gas will be the selling price at the delivery point. Delivery point means the location agreed in the petroleum contract at which the ownership of the oil, natural gas or coal gas is transferred from one contracting party to the other.

Tax rates

The specific royalty rate applicable to each type of resource will be as set out in the royalties tariff issued by the SCNA.

Exemption and reduction of tax

Royalties payers who as a result of an unforeseen natural disaster, fire or accident suffer a loss of the exploited resource for which they declared and paid royalties will be considered for exemption or reduction of royalties on the basis of the amount of such lost resource. The relevant amount of royalties paid will be refunded or set off against the royalties payable in the next tax period.

The following objects are exempt from royalties:

- Natural marine products
- Branch timber, tree-top timber, firewood, and all types of bamboo and reed exploited by licensed individuals for their daily living requirements
- Natural water used by family households and individuals to themselves produce their own hydroelectricity for their daily living requirements
- Natural water used for agriculture, forestry, fishing and salt production and natural water exploited by family households and individuals for their daily living requirements
- Soil exploited and used on the spot within the area of land allocated or leased; and soil exploited for levelling and filling national security and defence project works, military project works, and dykes.

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