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POLICY

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Changes to Special Consumption Tax on Alcoholic Beverages

Report Categories:

Wine

Beverages

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Report Highlights:

On July 1, 2016, the Vietnamese Government (GVN) promulgated Decree 100/2016/ND-CP, regulating detailed provisions and guidelines for the implementation of a number of articles under the Law 106/2016/QH13. Law 106 was issued on April 19, 2016, in order to amend and supplement the Law on Value Added Tax, the Law on Special Consumption Tax (SCT), and the Law on Tax Administration.

Decree 100 reinforces the SCT calculation method and provides further guidance on its relationship with businesses as regulated by Decree 108/2015/ND-CP (issued on October 25, 2015). These amendments and additions to Decree 108 took effect from July 1, 2016.

Policy

On July 1, 2016, the Vietnamese Government (GVN) promulgated Decree 100/2016/ND-CP, regulating detailed provisions and guidelines for the implementation of a number of articles under Law 106/2016/QH13, which amends and supplements the Law on Value Added Tax, the Law on SCT, and the Law on Tax Administration. For more information on Law 106, please refer to the GAIN report [VM6028](#).

Article 2 of Decree 100 reinforces and further explains the SCT calculation method and its relationship with importers, producers, affiliates, and trading entities as regulated by Decree 108/2015/ND-CP (which provides guidance for the implementation of a number of articles under the SCT Law). These amendments and additions took effect from July 1, 2016.

Below is an unofficial English translation outlining Article 2 of Decree 100/2016/ND-CP, in relation to the SCT on alcoholic beverages:

Article 2: To amend and add to GVN’s Decree No. 108/2015/ND-CP dated 28 October 2015, detailing and guiding the implementation of a number of articles of the SCT Law; and Law on amendments of and additions to a number of articles of the SCT Law as follows:

Clause 1 of Article 4 is amended as follows:

1. The taxable price of domestically-produced and imported goods shall be the selling price of the manufacturer/importer. In cases where the selling price of the manufacturer/importer does not correspond with the price of normal market transactions, the tax amount shall be deemed by the tax authorities under the Law on Tax Administration. The SCT taxable price is determined as below:

$$\text{Taxable price} = \frac{\text{Selling price exclusive of VAT - Environmental protection tax (if any)}}{1 + \text{Special excise tax rate}}$$

Of which, the selling price excluding value added tax (VAT) shall be determined in accordance with VAT laws.

- a) In cases where the manufacturer/importer of goods subject to SCT sells their products via their dependent accounting units (*Post Comment: the Vietnamese term “unit” refers to a wholly-owned subsidiary whose activities fully follow those of its parent company*), the taxable price is the selling price of such units. In cases where the manufacturer/importer sells the goods via an agent who then sells the products (at a fixed price determined by the manufacturer/importer) to earn commission only, the taxable price is the price fixed by the manufacturer/importer inclusive of commission.
- b) In cases where manufactured/imported goods are subsequently sold to trading entities having a parent-subsidiary relationship with, having the same parent as, or are parties related to the manufacturer/importer, the taxable price must not be lower than seven percent of the average

selling price of other trading entities which directly purchased goods from the manufacturer/importer. If a manufacturer/importer sets up a group of intermediate trading entities having a parent-subsidiary relationship with, the same parent as, or are related to the manufacturer/importer, the taxable price must not be lower than seven percent of the average selling price offered by the aforementioned intermediate trading entities to other independent trading entities (*Post comment: an independent trading entity must not have any form of relationship with the manufacturer/importer or their partners and related trading entities*).

The manufacturer/importer and trading entity shall be deemed as related parties pursuant to this Clause when: an enterprise directly or indirectly holds at least twenty percent equity capital of another enterprise.

In cases where the selling price imposed by the aforementioned manufacturer/importer is lower than 7 percent of the average selling price imposed by the resellers, the taxable price shall be imposed by the tax authority in accordance with regulations on tax administration.

2. Clauses 4 and 5 of Article 4 are amended as follows:

“4. The taxable price of goods produced under a toll manufacturing arrangement (*Post comment: this Vietnamese term refers to an arrangement where a principal company places an order with a processing company in order to have goods to sell*) shall be the selling price of the principal company or the selling price of goods of the same or similar type at the time of sale.

If the principal company sells goods to a trading entity having a parent-subsidiary relationship with, the same parent as, or are related parties to the manufacturer/importer, the taxable price shall be determined pursuant to item b, clause 1 of this article.

5. The taxable price of goods produced under a business cooperation scheme between the manufacturer and the licensee/owner of the trademark/manufacturing technology shall be the selling price of the licensee/owner. If the manufacturer produces goods under a license which is then transferred to a branch or representative of a foreign company in Vietnam for domestic sale, the taxable price shall be the selling price of the branch or representative.

In cases where entities sell goods to a trading entity having a parent-subsidiary relationship with, the same parent as, or are related parties to the manufacturer/importer, the taxable price shall be determined in accordance with item b, clause 1 of this article.”

Post Comment: The SCT calculation reform, regulated by Decree 108 and reinforced by Decree 100, continues to affect alcohol beverage importers who are required to pay a taxable price which is heavily dependent on the average selling price of their trading entities.

Should U.S. exporters of wine and beverage products have any questions regarding this SCT scheme, please contact Post via email: aghanoi@fas.usda.gov.

Decree 100/2016/ND-CP (in Vietnamese) is available in full at:

http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class_id=1&_page=2&mode=detail&document_id=185760