

1.3.7 General

Name: Circular No. 55-TC/TCT: Regulations for the Implementation of the Provisions relating to Taxation of Enterprises with Foreign Owned Capital, Foreign Parties to BCCs Conforming with the Law on Foreign Investment.

Agency: Ministry of Finance.

Date: August 1, 1993.

Details:

This Circular, which is consistent with Decree 18, contains detailed *implementing provisions* for the tax obligations of foreign invested enterprises. The obligations include the Business (corporate) Income Tax, Turnover Tax, Profit Remittance Tax, Import and Export Duties and others. The Circular does not apply to BOTs (recall that BOTs are the subject of upcoming specialized legislation).

The Circular's guidelines cover a number of issues, including:

- allowable deductions in the calculation of profits and expenditures;
- payment procedures and timing;
- basic accounting and auditing requirements;
- the rights and obligations of local tax authorities in regards to tax collection and enforcement; and
- tax issues that arise on the termination and liquidation of foreign investment projects. (Note that on this point, the Circular states that termination and liquidation must be approved by the local tax authorities before a foreign party can remit capital overseas.)

1.4 Intellectual Property

1.4.1 General Industrial Property

Name: Decree No. 13 LCT/HDNN8 on the Protection of Industrial Property Rights

Agency: Government.

Date: February 11, 1989.

Details:

In this Decree, the term Industrial Property Rights includes the ownership of rights to:

- an invention;
- a utility solution;
- an industrial design or trademark; and
- the rights to use an appellation of origin.

The Decree establishes an administrative hierarchy for the management of industrial property activity. In descending order, the groups responsible are the Government, the State Committee for Science, and the National Office of Inventions.

The rights of ownership and utilization are also laid out in the Decree. As regards inventions, utility solutions, industrial designs and trademarks, the owner has the rights of possession, exclusive use and right to transfer. Owners of titles of protection to use an appellation do not have the right of transfer.

Inventions and utility solutions are protected by patents with terms of 15 years and 6 years respectively. Certificates protect the other types of property. Industrial design certificates have a 10 year term, trademark certificates have 5 year terms, and appellations have no time limit.