

Draft Guideline on import tax exemption for contractors implementing VSRE pilot projects

1. Legal background:

- Circular No. 123/2007/TT-BTC dated 23/10/2007 “Guideline on implementation of tax policies and preferential taxation for ODA Programs and Projects”.
- Circular No. 82/2007/TT-BTC dated 12/7/2007 by Ministry of Finance “Guideline on State financial management of foreign grants under the state budget receivables”.
- Decree No. 123/2008/NĐ-CP dated 08/12/2008 by the Government on detailed stipulation and guideline on implementation of some articles of the Law on VAT.
- Circular No. 60/2007/TT-BTC dated 14/6/2007 “Guideline on implementation of some articles of Law on Tax Management and guideline for implementation of Government’s Decree No. 85/2007/ND-CP dated 25/5/2007 on detail regulation for implementation of some articles of the Law on Tax Management;
- Circular No. 128/2008/TT-BTC dated 24/12/2008 “Guideline on collection and management of receivables to State Budget through State Treasury”.
- Circular No. 85/2007/TT-BTC dated 18/7/2007 “Guideline on tax registration regulated in the Law on Tax Management”.
- Law on Customs No. 29/2001/QH10 dated 29/6/2001 and Law on amendment, supplement to some articles of the Law on Custom No. 42/2005/QH11 dated 14/6/2005.

2. General information of the MHP pilot projects:

- The MHP pilot projects are ODA grant projects. These projects are entitled for exemption from different kinds of taxes such as equipment import tax, special consumption tax (if any), and value added tax (VAT).
- Project management agency: Ministry of Industry and Trade
- Project owner/grant using agency: Provincial People Committee / PMU
- Project implementation contract: the contract signed between project owner and consortium of contractors with contract price exclusive tax.

3. Direct basic for application of tax exemption:

“ Owner of ODA grant project, **main contractor** implementing the ODA grant project shall not pay import tax, special consumption tax (if any), and VAT for goods which are directly imported or entrusted for import by Owner of ODA grant project, main contractor for implementing the ODA grant project” (quoted from Circular No. 123/2007/TT-BTC, Section II, Item 1).

4. Procedures for application for import tax exemption:

- (1) The main contractor signed contract on importing goods with equipment supplier or entrusted for importing equipment. **The contract price is tax exclusive.**
- (2) As soon as importation documents have been received, including Invoice, Bill of Lading, or Airway Bill and/or other transportation documents (if any), the Project

owner/Grant using agency (PMU) will help the main contractor preparing declaration form on imported goods according to the format C1-HD/XNVT issued together with the Circular 82/2007/TT-BTC. *The procedure for certification of grant is instructed in details in Guideline on Procedures for certification of grant.*

(3) The main contractor shall submit to the Customs Agency where the goods are imported the following documents (*Guideline on preparation of documents to be submitted to the Customs Agency is made in accordance with the guideline in the Circular 123/2007/TT-BTC and the Law on Customs*):

- Customs document (*pursuant to stipulations in Article 22, item 1 of the Law on Customs No. 29/2001/QH10 dated 29/6/2001 and Law on amendments and supplementation of some articles of Law on Customs No. 42/2005/QH11 dated 14/6/2005*) including:

- Customs declaration form;
- Commercial invoice;
- Goods purchase agreement;
- Permission of competent authority for imported goods, which require permission.
- Other evidence documents to each item of goods which required by law to be submitted to the Customs Office by the declarant.

The customs document can be in paper or electronic forms. The electronic customs document shall ensure integrity and format in accordance with law.

- Certification of the grant imported good issued by authorised financial agency (Provincial Department of Finance).

- Copy of Announcement of Successful Bidder together with copy of EPC contract with before tax price (the copies shall be signed and stamped by PMU).

- For contractors implementing the VSRE pilot projects, the documents to be submitted to customs office need to be attached with the copy of Decision of Provincial People Committee entrusting tasks of management and implementation of pilot project to PMU (the copy shall be signed and stamped by PMU).

(4) The Customs Office shall not collect import tax, special consumption tax (if any), VAT for goods imported for implementation of ODA grant projects.

5. Notes:

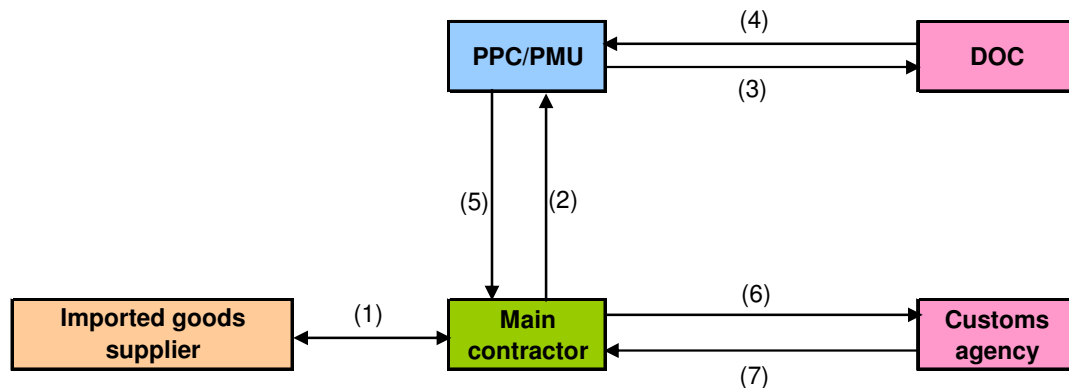
In case the main contractor is the **consortium of different members and each member implements separate work**, each member shall issue their own invoices for their revenue: in this case, tax agency will provide tax code to each member of the consortium (if not yet provided with tax code).

In case members of consortium **share income under the contract**, the tax agency will provide tax code to the leading member (if not yet provided with tax code) for getting VAT reimbursement.

In case members of consortium **share revenue under contract**, the tax agency will provide tax code to the member which is responsible for issuing invoice to the project owner for getting VAT reimbursement.

In case members established the **consortium steering committee**, this committee will do accounting, opening bank account and is responsible for issuing invoice and receiving payment from project owner: in this case, the tax agency will provide tax code to the committee for getting VAT reimbursement. Each consortium member will issue VAT invoices when receiving payment from consortium steering committee.

Tax exemption procedure for imported goods



- (1) **Main Contractor** signs contract on importing equipment with equipment supplier or entrusted agency (Contract price exclusive tax)
- (2) Upon receiving vouchers of import goods, **Main Contractor** shall request PMU to prepare grant certification document
- (3) **PMU** prepare grant certification form according to format C1-HD/XNVT of Circular 82/2007/TT-BTC and request for certification from **DOF**
- (4) **DOF** certifies on the certification form and sends back the certification paper to **PMU**
- (5) **PMU** sends certified grant certification form together with related legal document for contractor to prepare dossier to be submitted to Customs Agency.
- (6) **Main Contractor submits to local customs office the following documents:**
 - Customs declaration form
 - Commercial bills
 - Goods purchase agreement
 - *Permissions of competent authorities for goods requiring permission*
 - Other vouchers required by law for each type of goods to be submitted to Customs Office.
 - Grant certification form with certification of **DOF**
 - Copy of successful bidder announcement together with copy of EPC contract with before tax price (copies shall be signed and stamped by **PMU**)
- (7) **Customs agency** shall not collect import tax, special consumption tax (if any), VAT for goods imported for implementation of ODA grant projects