



LAC DUY & ASSOCIATES

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NEWSLETTER






**SOME PROMINENT CONTENTS
IN THE NEW IMPORT AND
EXPORT TARIFF ARE SPECIFIED
IN DECREE 144/2024/ND-CP**

**“HOT” WITH THE
AIR CONDITIONER**



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Dear Clients,

Lac Duy & Associates would like to send you the legal newsletter of December 2024 with some notable updates and articles as follows:

- "Hot" with the air conditioner
- Some prominent contents in the new import and export tariff are specified in Decree 144/2024/ND-CP



"HOT" WITH THE AIR CONDITIONER



Pham Dang Khoa, Lac Duy & Associates (LDA)

The article was published in Saigon Economic Newspaper No. 49/2024 on 05/12/2024

Air conditioners, essential consumer products in people's lives.

In recent days, both the National Assembly and the people have suddenly been "hot" with the drafting agency of the Law on special excise duty (amended) proposing to continue imposing special excise duty (SED) on air conditioning items (air conditioning). Specifically, air conditioners with a capacity of 90,000 BTU or less are still subject to 10% SED. This is the SED rate that has been maintained for 16 years (since 2008) for this item.

The interest is probably partly due to the fact that air conditioners have become too familiar, an essential consumer product in people's lives, both in urban and rural areas, both for people with a lot of money and people with little money, such as workers or students in popular neighborhoods. Meanwhile, the general psychology of many people when it comes to SED is that it is a tax to regulate the consumption of luxury products or products harmful to health and the environment (such as wine, beer, tobacco). This is something that people no longer see, or no longer clearly see in the consumption of air conditioners today.

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Therefore, when giving opinions on the content of the relevant draft law, the majority of National Assembly deputies who made comments did not agree. The vast majority of opinions raised on forums also think that this taxation is no longer appropriate.

On the other hand, in defense of the proposal to maintain the SED on air conditioning items, the drafting agency, as usual, relied on the familiar motif: (i) The necessity of maintaining the SED collection on this type of item; and (ii) The practical experience of other countries is showing that the SED on air conditioning is reasonable (the world is doing it, we are also learning to follow it). Unfortunately, this time, the arguments of the drafting agency do not seem reasonable and convincing enough.

In terms of necessity, in order to be considered to exist reasonably, SED on a specific commodity needs to show the following roles: Firstly, most importantly, it is a tool to help the State regulate production and consumption. Through high tax rates and directly increasing the selling price of goods, SED will directly contribute to influencing consumption decisions, the ultimate purpose of which is to limit the production and consumption of goods that are not beneficial to the economy and society (for example: products that are harmful to human health and cause environmental pollution); Secondly, the high tax rate of SED will contribute to creating a significant source of income for the state budget; Third, SED contributes to the redistribution of income of high-income earners, ensuring social justice (for example, taxes on luxury products, most of which are only accessible to people with a lot of money).

UNFORTUNATELY, THIS TIME, THE ARGUMENTS OF THE DRAFTING AGENCY DID NOT SEEM REASONABLE AND CONVINCING ENOUGH.

With a contribution of only about 2% of the total SED and only about 0.2% of the total tax revenue of the economy in the statistical year 2021(1), it is clear that currently, the revenue from SED for air conditioners can hardly be considered a significant contribution to the state budget. In other words, whether or not to maintain this revenue source does not seem to have much impact on the State's revenue to serve public activities and services. Not to mention, this revenue source can be completely replaced by including in the list of goods subject to SED many products and services that, according to many people, need to be taxed for a long time, such as perfumes and beauty services, which are quite high-end and not really essential.

Meanwhile, the view that air conditioners are regulated due to their luxury and non-essential nature, as mentioned above, has become obsolete and no longer convincing. It has been 26 years since air conditioners were first included in the list of goods subject to SED in 1998 with a tax rate of 20%, which is the time when this cooling device is clearly a luxury item and very few families can own. Currently, it is very normal for each household to own a few air conditioners. The price of air conditioners is getting cheaper and cheaper plus the conditions of house construction density, the weather is getting hotter and hotter, making air conditioners a form of necessity that not many people still consider whether to buy or not.

To defend its view of continuing to tax, the drafting agency argues that air conditioners below 90,000 BTU use large amounts of electrical energy, which is one of the causes of global warming. In addition, common coolants

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in air conditioners such as HFCs also harm the ozone layer and pollute the environment. In fact, if only because of the power consumption of air conditioners, currently models with energy-saving inverter technology have become very popular. Instead of taxing the consumption of air conditioners that consume electricity and are harmful to the environment in general, the competent authority should approach the problem in the direction of promoting policies to encourage the development of energy-saving and limited technologies, leading to the elimination of products using old technologies that are not beneficial for both electricity consumption and bad for the environment field. In addition, for harmful substances such as HFCs, it is questioned that these substances are not only found in air conditioners but also in many other refrigeration equipment, such as coolers, freezers, and products that are not subject to SED. Not to mention, in order to manage these harmful substances, our country has also had many restrictive regulations, such as quotas, as well as gradually excluding from devices that use them in the coming time.

Thus, as analyzed above, different from the argument of the drafting agency, the maintenance of SED on air conditioning products seems to have no basis in terms of reasonableness and necessity in the current conditions of our country. What about international practice? According to the Ministry of Finance - the drafting agency, referring to international experience, some countries still collect this tax. This ministry cited that South Korea, India, and Norway tax HFCs in air conditioners. In Europe, Spain prohibits placing air conditioners below 27 degrees Celsius. In the UK, to install, homeowners must apply for a permit, regularly undergo tests on energy efficiency, and subsequent operation.

There is nowhere to find information on air conditioners subject to SED in the countries that the drafting agency is citing to explain the need to continue collecting SED on this product in Vietnam.



SOME PROMINENT CONTENTS IN THE NEW IMPORT AND EXPORT TARIFF ARE SPECIFIED IN DECREE 144/2024/ND-CP

On November 1, 2024, the Government issued Decree No. 144/2024/ND-CP amending and supplementing a number of articles of Decree No. 26/2023/ND-CP dated May 31, 2023 on Export Tariff, Preferential Import Tariff, List of goods and absolute tax rates, mixed taxes outside tariff quotas ("**Decree 144**"). This Decree takes effect from December 16, 2024.

Accordingly, Decree 144 has amended the export tax rates and preferential import tax rates for a number of items in Appendix I - Export Tariff and Appendix II - Preferential Import Tariff of Decree No. 26/2023/ND-CP as follows:



1. For Appendix 1 of the Export Tariff on the List of Taxable Items:

- (i) Ammonium nitrate with a content of $\text{NH}_4\text{NO}_3 > 98.5$ with HS code 3102.30.00.10 is subject to a tax rate of 0%, instead of 5% as previously prescribed; and
- (ii) Unprocessed zinc (heading 79.01) and unprocessed tin (heading 80.01) are combined with 10-digit HS codes and are subject to the same export tax rate of 10%.

2. For Appendix 2 of the Preferential Import Tariff Schedule according to the List of Taxable Items:

The preferential import tariff schedule under the amended List of taxable goods includes 2 sections:

- Section 1: Preferential import tax rates applicable to 97 chapters according to the list of goods imported into Vietnam;
- Section 2: Chapter 98 - Regulations on commodity codes and preferential import tax rates for a number of groups of goods and commodities.

In particular, prominent items subject to preferential import tax rates include:

- (i) Soybean dry oil, which is an important ingredient for domestic animal feed production, classified in HS code 2304.00.90 is entitled to a reduction in the preferential import tax rate from 2% to 1%;

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- (ii) Electronic equipment used for e-cigarettes and similar personal vapor electrochemical equipment with HS code 8543.40.00 is subject to a preferential import tax rate of 50%, previously this item was subject to a tax rate of 0%;
- (iii) Single-axle tractors for agriculture with HS code 8701.10.11 are entitled to a reduction in the preferential import tax rate to 20% instead of 30% as previously prescribed; and
- (iv) Brake fluid hoses with HS code 9845.60.00 and pipes used for automobile transmission oil leads with HS code 9845.90.10 have been increased by 22% and 20% respectively instead of the same taxable rate of 15% as before.

The adjustment of import and export tax rates in Decree 144/2024/ND-CP is considered to bring a lot of meaning to the country. While the reduction of import taxes on items such as soybeans will create advantages for soybean production, promoting the domestic livestock industry, items that affect human health such as tobacco, the Government has applied an import tax rate of 50% to limit the negative impacts of this item in Vietnam. In addition, for items such as brake fluid pipes or automobile transmission oil pipes, these are basic items that have been produced domestically, so increasing the preferential import tax rate is an important policy to protect domestic production.

On the other hand, in order to simplify the tariff schedule due to the lack of clear distinguishing criteria, the Government has included the line of 10-digit HS codes of unprocessed zinc and tin products in the Export Tariff. This facilitates the classification and application of codes by customs authorities, ensuring the principle of uniform application of tax rates for goods of the same nature, structure, utility, and similar technical features promulgated in Clause 5, Article 10 of the Law on Import and Export Tax 2016.

