



Lao People's Democratic Republic
Peace Independence Democracy Independence Prosperity

Central committee for

Promotion and Management of Investment

No. 01/CPMI

Vientiane Capital. Dated 2 January 2019

Instruction

On duty and value added tax incentives for master list of investment promotion of enterprises

- Pursuant to Investment Promotion Law No. 14 / NA, dated 17 November 2016;
- Pursuant to the Value Added Tax Law No. 52 / NA, dated 23 July 2014;
- Pursuant to the Customs Law No. 04 / NA, dated 20 December 2011;
- Pursuant to the Prime Minister Order on Improvement of Regulations and Coordination Mechanism of Doing Business in the Lao PDR No 02/PM, dated 1 February 2018.
- Pursuant to the Memorandum of Understanding on the Implementation of Custom duty and Taxation Policy for Domestic and Foreign Investment Enterprises in the Lao PDR between the Ministry of Finance and Ministry of Planning and Investment, dated 18 December 2017

1. Objectives

The objective of this instruction is to further explain some articles of the law on investment promotion No. 14/NA, dated 17th November 2016 and Instructive order of the Prime Minister No. 02/PM on the improvement of regulation and cooperation of doing business in Lao PDR aiming to address difficulties pertaining to the ease of doing business indicator of Lao PDR and makes the implementation of customs duty and VAT incentives coherent with procedures and operation methodology in approving master lists that serve investment projects and create facilities for investors in Lao PDR.

2. Policy on custom duty and VAT incentives

Tax and duty incentives mean the granting on incentives for the permanent and temporary import of items listed in the master list with the purpose to serve production

and to develop investment activities listed in promoted sector as specified in the law on promoted investment and business bound by the contract made with the government.

3. Definitions

- Raw material: means materials that come from nature such as metal and non-metal, from agriculture and forestry such as plants and livestock, originating from foreign countries such as semi-finished products and from wastes such as pieces of paper, pieces of wood, pieces of plastic, but except those environment-polluting wastes
- Components are materials that are used as parts of production of any fully finished products
- Equipment are any finished or semi-finished products that are used in production or as parts of other finished products
- Parts are materials that are used for changing in machines, equipment and other tools
- Machines are the combination of components served for production, power transmission, change or replace from one energy to others which will become fixed assets of enterprises
- Vehicles serving for direct production are vehicles used for construction, mines excavation, lifting, and transshipping, mashing, cement production, agricultural production and processing manufactures, public services for instance buses with over twenty-five for commuting and tourism, urban cleaning, special transport industry such as trailers, water truck, chill truck, and trucks carrying hazardous materials (fuel, gas, chemical trucks) and other vehicles, excavator, bulldozer, crane, forklift
- Fixed asset is company's capital that is specified in its account of fixed asset and must be discounted by the annual depreciation charges as stipulated by laws.

4. Scope of uses

This instruction is used for private enterprises in Lao PDR and stipulated in the list of promotional investment by the law on previous promotional investment or the law on promotional investment No. 14/NA, dated 17 November 2016.

5. Types of customs duties and value added tax incentives

3.1. Master list

The making of annual master list is the responsibility of enterprises and projects which will used to propose for the yearly import by following the coherence of the

economic and technical feasibility study, by devise, and the actual volume calculation of the work which need to seek approval from relevant agencies and accurate as required by laws. The master list is valid for one year starting form the day of signing. After its expiration, all the listed products that have not been imported yet must be immediately terminated.

3.2. Additional or urgent import plan

Additional or urgent import plan is the import plan for additional or urgent necessities, which will be used in the production of enterprises with value and volume of the actual additional request of enterprises. the validity of the additional or urgent import plan is as same as specified in the approved master list. In the time of seeking approval for master list, if enterprises need to import raw materials for their production, they must be certified based on master list by the planning and investment sector to be used as a request for releasing products from warehouses or ports before the detailed customs declaration as stipulated by the law on customs. After the approval of master list, the deposit must be cleared thereafter in accordance with the law on customs and regulation very strictly.

6. Methodology of customs duty and value added tax incentives

6.1. Exemption of duty and other taxes

- The import of raw materials, equipment, components, and machines serving for production for a complete export purpose

6.2. exemption of custom duty and value added tax incentives at 0 %

- the import of construction materials and equipment that are not domestically available or insufficient for the need will be approved only one time and will be based on the duration of factory, buildings, plant construction with only considered fixed assets of enterprises and they must follow models, plan, the calculated sheet of work volume approved by public work and transport sector.
- The import of raw materials, components, parts and machines that insufficient or not domestically available in Lao PDR that will be used in direct production, other than this shall be complied with law on customs and the law on value added tax for instance the import of equipment that will not used for direct production and the parts that will be used for changing.
- The import of vehicles serving direct production and to turn into fixed assets

Buses serving for tourism and communication must be brand new, except for heavy vehicles that should be brand new or used vehicles with no more than 08 years of operation or no more than 20.000 hours. Vehicles that received incentives on the import by the law on promotional investment must be serving enterprise for at least 5 years before import substitution or before being transferred. The aforementioned vehicles shall be complied with the pertaining law and regulation on customs and taxes thereafter.

The import of fuel, gas, lubricant, jeeps, trucks, and vans with less than 25 seats will not receive promotional incentives and will have to comply with pertaining laws and regulation

Domestically produced products must be utilized, but if enterprises need to import, they will be ineligible to receive promotional incentives and shall be complied with related laws and regulation. In case of the lack of technical standard accepted by construction or production in the domestically produced products, enterprises are encouraged to propose the request for import to the committee on promotion and management of investment for their discretion.

6.3. Incentives for temporary import

domestic or foreign enterprises that hold contracts with government such as MOU, project development contract, concession and exploration contract are able to create the temporary import plan to be approved by planning and investment sector for equipment and machines serving for direct production with long validity as to follow with laws on customs and regulation.

7. Conditions required for customs duty and value added tax incentives

Enterprises investing in Laos with the intention to obtain incentives must follow below conditions:

1. must be legal identity
2. be enterprise as listed in promotional investment activity as stipulated by law on promotional investment
3. Must hold investment value of at least 1.2 billion kip or contracting of at least 30 lao workers or holding at least 01 year contract of more than 50 lao workers
4. Have consistent business operation and pay duty and taxes according to law and regulation with the yearly certification of payment.

8. Proposing importation plan policy and dividing level for consideration

Enterprises at central level will submit their request to the department of investment promotion, ministry of planning and investment (one stop service, central level) to conduct a joint review and discussion with relevant sectors. After relevant sectors have mutual agreement, the proposal will be submitted to the director of ministerial cabinet office of the ministry of planning and investment to sign on the approval. For mega projects that hold contract with the government and agreed upon by the national assembly with more than 1 billion US dollar, the master list will be signed and approved by the minister of planning and investment, then will be passed the approval to department of customs, ministry of finance to issue letter to inform to the concerned international customs borders.

Enterprises at local level will have to submit their request to the provincial department of planning and investment (one stop service office, provincial and capital) in order to conduct a discussion meeting with relevant sectors, after the request is agreed, the request will be submitted to the director general of planning and investment department to sign and approve the master list, before passing the approval to the department of finance of province, capital to inform international customs borders where goods will be imported through. In case of the location of enterprise is not in the same province as where goods will be imported, then the department of planning and investment where the enterprises are located will have to collaborate with the department of finance of where goods will be imported and submit documents to central level (department of customs) for monitoring.

For hydro power and mining projects that are bound by concession contract made with the government will have to submit their request to energy and mines sector to conduct a discussion meeting over the master list with the participation from relevant sectors, then will have to send the master list to planning and investment sector to approve the master list. For small sized hydro power projects that are approved by provincial level will have to submit to the department of energy and mines at provinces to conduct a discussion meeting over the master list, then will have to send the master list to the department of planning an investment to sign and approve.

For garment factories, the system of production factories for the purpose of processing and export that will request for the certification or origin or CO, after the industry and commerce sector has approved the master list already, then will have to submit to finance sector (department of customs) to manage the actual import as stipulated by regulations. For the system of production factory for domestic distribution only will have to submit their request to the

industry and commerce sector to review over the master list before submitting it to the planning and investment sector to approved the master list in accordance to law and regulation

9. Documentary compliance for obtaining import incentives

To obtain custom duty and value added tax incentives must comply with below documents:

1. request letter to approve duty and value added tax incentives for master list
2. a letter of authority which is certified and approved by the director of enterprise
3. a brief report of the doing business which contains information of last year import, labors, and other aspects
4. draft master list (form and tables as specified by the planning and investment sector) and the soft file version
5. a copy of investment permit, enterprise registration permits and business license, a certification of tax payment of previous year, contract with government (for concession project) and the construction permit (new building/factory)
6. a copy of previous year master list
7. a copy of the yearly import plan of the enterprise that is approved by the industry and commerce sector (in case of enterprise and production plant). The department of industry and handicraft, ministry of industry and commerce must certify the import of chemicals.

10. Procedure

Master list: after obtaining a complete, accurate, and coherent set of documents required for approval request from planning and investment sector, then a discussion meeting with relevant sectors will be conducted to review the master list within 7 working days, after that enterprise has to adjust the master list according to the resolution of the meeting within 15 working days. In case of not being able to adjust the master list by the given period of time, the request for approval on master list will be ineligible for incentives. if enterprise would like to continue requesting for incentives, they have to resubmit the documents. After enterprise has conducted a revision of the master list according to the resolution of the panel meeting, planning and investment sector will review and consider in coherence with their responsibility whether in central or local level.

For hydro power and mining projects: after receiving a complete and coherent request letter to seek for approval on master list organized by energy and mines sector with the participation of relevant sectors within 07 working days. Enterprise will then correct the master list according to the resolution made by panel meeting within 15 working days. In case of not complying within the given period of time, the master list will be ineligible for incentives. If enterprises would like to continue, they have to resubmit the documents and after they have done revising the master list, energy and mine sector will then have to send the master list to planning and investment sector to consider approving in according to their responsibility whether in central or local level within 07 working days. After approval, planning and investment sector has to send the master list to relevant sectors within 02 working days.

11. Management and monitor

- Planning and investment sector is responsible for approving and managing the duty and tax incentives for enterprises investing in Lao PDR and directly in charge and leads the collaboration with finance sector and other concerned agencies as well as tighten the managing in accordance with objectives and regulation
- Finance sector is responsible for the actual import after the master list has been approved by planning and investment sector to discount the master list each time as well as regularly summarize the quarterly and yearly report for planning and investment sector and other agencies

12. The making of master list that is excluded from investment promotional policy

- The making of master list for grant or loan projects for any development shall be proposed to ministry of finance for their review in accordance with prime ministerial decree on the management and the use of official grant for development No. 75/PM, dated 20th March 2009.
- The making of master list for government investment projects shall be proposed to ministry of finance to review in accordance with the law on investment promotion No. 72/NA, dated 15th December 2015.
- The making of master list of developers or investors in special economic zones shall be proposed to the office of investment promotion and special economic zone in

accordance with the decree on special economic zone No. 188/GOL, dated 07th July 2018.

13. Violation

After enterprises have received the approval from planning and investment and expected to be served for the target project. In case of abusing or using in the wrong project, transferring or other forms that against the law related to the import under investment promotion, exemption, reduction or temporary without permission from planning and investment sector and finance sector (customs) will be filed to court for duty and tax payment as well as imposing penalty fees in according to the severity level of cases or as strictly set forth in the law on customs.

14. Application

Planning and investment, finance, industry and commerce, energy and mines sector are designated to collaborate with other concerned agencies to strictly implement this instruction.

15. Effectiveness

This instruction becomes effective from the date of signature and 15 days after publicizing on Lao official gazette.

**Chairman of
Committee for Promotion and Management of Investment**

Sonexay Siphandone