

## TAX INCENTIVES FOR RESEARCH - DEVELOPMENT ACTIVITIES BY VIETNAMESE ENTERPRISES

**M.Sc. Hoang Van Tuyen**

National Institute for Science and Technology Policy and Strategy Studies

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***Abstract:***

*Research and development (R&D) activities are very specific in their natures and then need to be encouraged and to get highest supports in incentive tax measures. Incentive tax measures, however, actually applied in Vietnam, for this specific sector of activities remain limited in many aspects. This study gives contributions to clarify the status, limited aspects of these tax incentives for R&D activities by Vietnamese enterprises and provides some suggestions for further consideration in the coming time.*

***Keywords:*** R&D activity; Enterprise; Tax incentive.

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### **1. Introduction**

Taxes actually applied for R&D activities in general and R&D activities by Vietnamese enterprises in particular include: corporate income tax, value added tax (VAT), import tax, personal income tax and others which are stipulated in various legal documents, such as Law on Science and Technology (S&T), Law on Investment, taxation-related regulations and many other sub-law documents. R&D activities are very specific in their natures and then need to be encouraged and to get highest supports in tax rates. But the actually applied policy of tax incentives in Vietnam for this specific sector of activities is not found proper in many aspects. The following presentation gives an analysis of the tax incentives applied to R&D activities by Vietnamese enterprises which are provided in legal documents (since 2005) and are valid presently in practice. The paper also provides some suggestions for policy to be further considered in the coming time.

### **2. Nature of tax incentives for R&D activities**

The taxation is seen as items of contributions compulsorily applied for all the subjects which are regulated by the State in legal documents. The taxes are legal nature duties of organizations and individuals to transfer part of their incomes to State budgets under a full set of terms and conditions governed by taxation legal regulations.

Products of R&D activities are presented in forms of formulae, drawings, scientific reports, designs, prototypes, new technological solutions, technical know-hows, new technological procedures or new products created by the above noted solutions on basis on new technologies containing machines and equipment, and etc. The value of R&D activities products is composed of costs of tangible labor and intangible labor (intellectual labor). These specific natures have advantages in their driving effects to push up processes in production cycles of commodities but remain difficult for a proper consideration to identify prices of R&D products which are backgrounds to apply tax rates for R&D products.

Tax-related legal regulations stipulate that organizations and individuals have duties to pay certain amount from their revenues to State budgets after having sold products they created. This means that taxes imposed to R&D products would rise only in case R&D products enter into actual transactions for exchange, sales, application for production practice and other types of business activities. On this basis of reasons, the taxes would be imposed to those R&D products which are commercialized (sales-purchases, transfers, applications for production which generate benefits). Those products which do not get commercialized are not eligible for calculation and application of tax (*Nguyen Van Hoc, 2005*).

It is possible to say that R&D activities are the type of activities which should be encouraged and get highest incentives among tax rates since these activities explore, search, identify and interpret to understand the natures and rules of natural and social objects, phenomena and thinking minds, and to create solutions for application in practice. Therefore, they have very specific natures (such as novelty, unpredictability, objectivity and etc.). Investments made for practice of R&D activities have a nature of in-depth investments and, naturally, they cannot produce immediate effects. But this type of investments is of great importance, particularly in cases where their outcomes can be applied by enterprises to promote productivity, to reduce production costs and to enhance quality and competitiveness of products.

### **3. Tax incentives for R&D activities by enterprises as stipulated in legal documents of Vietnam**

#### ***3.1. Tax incentives as stipulated in science and technology related legal documents***

Law on S&T (2013)<sup>1</sup> and some other S&T related legal regulation stipulate regulations for cases which may get incentives from tax policies, namely: (i) Incomes which are generated from realization of contracts for scientific research and technological development; (ii) Incomes which are generated from products made by new technologies applied for the first time in Vietnam or produced during the time of pilot production; (iii) Operation of high-tech based enterprises, high-techs applying agricultural enterprises and some activities in high-tech areas; (iv) S&T services; (v) Machines, equipment, parts and materials which cannot be produced locally and then need to be imported for direct use in activities for scientific research and technological development; (vi) Financial funds and supports from organizations and individuals for activities of scientific research and technological development; (vii) Technological transfers by organizations and individuals in encouraged and priority sectors and in socio-economic difficult areas; (viii) Other cases specifically stipulated in tax-related regulations.

### ***3.2. Tax incentives as stipulated in corporate income tax related legal documents***

#### *a) Law on Corporate Income Tax 2008 and implementation guiding documents<sup>2</sup>*

These documents govern tax-exempted incomes:

- Incomes generated from realization of contracts for scientific research and technological development, incomes generated from sales of pilot products and incomes generated from sales of products made by new technologies applied for the first time in Vietnam, the maximal tax-exempted time not exceeding 1 (one) year since the day of start of production according to contracts for scientific research and technological application, pilot production or new technologies based production (Term 2, Article 4, Resolution No. 124/2008/ND-CP).
- Incomes generated from realization of contracts for scientific research and technological development, incomes generated from sales of pilot products and incomes generated from products made by new technologies applied for the first time in Vietnam including the incomes generated from franchising the certificate of CERs, the maximal tax-exempted time not exceeding 1 (one) year since the day of start of production according

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<sup>1</sup> Law on S&T (Law No. 29/2013/QH13) dated 18<sup>th</sup> June 2013.

<sup>2</sup> Law on Corporate Income Tax (Law No. 14/2008/QH12) dated 3<sup>rd</sup> June 2008; Resolution No. 124/2008/ND-CP dated 11<sup>th</sup> December 2008 by the Government; Resolution No. 122/2011/ND-CP dated 27<sup>th</sup> December 2011 by the Government.

to contracts for scientific research and technological application, the start of pilot production or new technologies based production, the day of franchising the certificate of CERs (Term 2, Article 1, Resolution No. 122/2011/ND-CP).

Also, Term 3, Article 8, Circular No. 123/2012/TT-BTC dated 27<sup>th</sup> July 2012 by Ministry of Finance provides the guidelines for implementation of some articles of Law on Corporate Income Tax 2008 and the guidelines for implementation of Resolution No. 124/2008/ND-CP and Resolution No. 122/2011/ND-CP by the Government providing the guidelines for implementation of some articles of Law on Corporate Income Tax in terms of matters related to tax exemption, namely: Incomes generated from realization of contracts for scientific research and technological development, incomes generated from sales of pilot products and incomes generated from sales of products made by new technologies applied for the first time in Vietnam including the incomes generated from franchising the certificate of CERs; the maximal tax-exempted time not exceeding 1 (one) year since the day of start of realization of the contract for R&D, the start of use of new technologies applied for the first time in Vietnam, the day of franchising the certificate of CERs.

Details of these regulations stipulate:

- (i) Incomes generated from realization of contracts for R&D and eligible to be qualified for tax exemption must meet the following terms and conditions:
  - Having a registration for scientific research;
  - Being certified by a competent State S&T agency.
- (ii) Incomes generated from sales of products made by new technologies applied for the first time in Vietnam and eligible to be qualified for tax exemption must meet the terms and conditions that the used technologies must be certified by a competent State S&T agency.

*b) Law revising and amending some articles of Law on Corporate Income Tax (Law No. 32/2013/QH13<sup>3</sup>) and implementation guiding documents*

These documents regulate the tax-exempted incomes: Incomes generated from realization of contracts for R&D, incomes generated from sales of pilot products and incomes generated from sales of products made by new

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<sup>3</sup> Law reviewing and amending some articles of Law on Corporate Income Tax (Law No. 32/2013/QH13) dated 19<sup>th</sup> June 2013; Resolution No. 218/2013/ND-CP dated 26<sup>th</sup> December 2013 by the Government governing details of some articles Law on Corporate Income Tax and Law reviewing and amending some articles of Law on Corporate Income Tax.

technologies applied for the first time in Vietnam; the tax exempted time not exceeding 1 (one) year since the day of turnovers raised from sales of products made from realization of contracts for R&D, sales of pilot products or products made by use of new technologies.

Also, Term 3, Article 8, Circular No. 78/2014/TT-BTC dated 27<sup>th</sup> July 2012 by Ministry of Finance stipulates the terms and conditions for tax-exempted incomes, namely: “Incomes generated from realization of contracts for scientific research and technological development, incomes generated from sales of products made during the time of pilot production and incomes generated from products made by new technologies applied for the first time in Vietnam, the maximal tax-exempted time not exceeding 1 (one) year since the day of turnovers raised from sales of products made from realization of contracts for scientific research and technological application, sales of pilot products or products made by use of new technologies applied for the first time in Vietnam.

- (i) Incomes generated from realization of contracts for R&D and eligible to be qualified for tax exemption must meet the following terms and conditions:
  - Having a registration for scientific research;
  - Being certified by a competent State S&T agency to be contracts for R&D.
- (ii) Incomes generated from sales of products made by new technologies applied for the first time in Vietnam and eligible to be qualified for tax exemption must meet the terms and conditions that the used technologies must be certified by a competent State S&T agency as the technologies applied for the first time in Vietnam”.

From another side, Term 1, Article 18, Circular No. 78/2014/TT-BTC governs: “Incentives in terms of Corporate Income Tax are applied only for those enterprises which implement the regulations-based systems of accounting practice, bills and payment evidences and the self-declaration-based corporate income tax payment”.

Another point of attention in Law on Corporate Income Tax, 2013 Year (Term 7 and Term 11, Article 1) is: (i) Tax rate of 10% is applied for a duration of 15 years for incomes of enterprises generated from realization of contracts for new investments in sectors of R&D; (ii) Enterprises which are established according to Vietnamese Laws are entitled to extract 10% in maximum from annual taxable incomes to raise up Funds for S&T Development of their enterprises. Particularly for State-owned enterprises, in addition to the amounts extracted for Funds for S&T Development according to this Law, they are required also to secure the minimal rate for

Funds for S&T Development as regulated by legal regulations for S&T development.

In summary, by 18<sup>th</sup> June 2014, on basis of actually valid regulations for corporate income taxes applied to S&T activities (including R&D activities), some limitations and difficulties for practical application can be listed as follows:

- *First*, as stipulated in Term 3, Article 8, Circular No. 78/2014/TT-BTC, it can be interpreted that all organizations including enterprises, if wanting to get a background for tax exemption, are required to have “a certificate of registration for scientific research activities”<sup>4</sup> or, even on case-by-case basis, every contract<sup>5</sup> has to pass the procedure of registration for scientific research activities<sup>6</sup> (it is worth to remark here the procedure is noted as “the registration for scientific research activities”);
- *Second*, every contract for R&D (indifferently for the status of organizations) has to be certified by competent State science agencies (it is worth to remark here the authority is noted as “competent State science agencies”);
- *Third*, the question is how the procedure of registration is completed in cases where the contract for R&D is concluded between a competent State science agency (commonly called as Party A) and one organization (or a team of organizations) (commonly called as Party B), Party B, if wanting to get the tax exemption status for costs for realizations of contract, is required to get “a certification” for the status of their contract for R&D by a (another?) competent State science agency, or there is, among the members of Party B, one organization which does not have “the certificate for activities of R&D”;
- *Fourth*, in cases where the party realizing the contract for R&D does not meet the above noted two terms and conditions, it is naturally required to accept to pay the corporate income tax, but the question is which is the tax rate (percentage from the total contract value);

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<sup>4</sup> The point to note here without in-depth analysis is the notion of “technological development” which covers the technology extension and technology upgrading (Vu Cao Dam, 2003).

<sup>5</sup> The author uses the notion “costs for realization of contracts” instead of “incomes generated from realization of contracts”.

<sup>6</sup> The registration of S&T activities of S&T organizations (as stipulated in Article 8 and Article 9 of Resolution No. 08/2014/ND-CP dated 27<sup>th</sup> January 2014 by the Government to regulate details and provide guidelines for implementation of some articles of Law on S&T).

- *Fifth*, is it right that no binding conditions exist for tax exemption from turnovers generated from sales of products during the time of pilot production?
- *Sixth*, the question is related to the statement that “the incomes generated from sales of products made by new technologies applied for the first time in Vietnam, for purpose to get the tax-exemption status, need to secure the certificate of new technologies applied for the first time in Vietnam provided by a competent State science agency. The problem here is that a document is required to regulate the competency of agencies to deliver the certificate for technologies applied for the first time in Vietnam;
- *Seventh*, if “all products made from contracts for scientific research...”<sup>7</sup> can be sold or generate turnovers? If they cannot be sold how the turnovers are “broken down”?
- *Eighth*, “the maximal tax exemption time not exceeding 1 (one) year since *the starting day of realization of the contract* for R&D...” (as regulated in Circular No. 123/2012/TT-BTC ) had been changed to “the maximal tax exempted time not exceeding 1 (one) year, since the day of *turnovers raised from sales of products made according to the contract* for scientific research and technological application...” At this point, there appears an inconsistency between “the contract for R&D” and “the contract for scientific research and technological application” (as regulated by Circular No. 78/2014/TT-BTC). Another point, very important to note here, is that it is impossible to impose the tax duties to R&D activities only on basis of the concluded contract but on the time moment of issuance of bills for contract clearance and for S&T activities (if tax duties remain yet). It means that the time of tax rising is the time of transfer of results of the contract to the ordering party with the bills for contract clearance being attached with;
- *Ninth*, which is the level of the State science agencies competent to certify the status of the contracts for R&D?
- *Tenth*, for a R&D organization, how to interpret “the regulations-based systems of accounting, bills and payment evidences and the self-declaration-based corporate income tax payment”? Is a R&D organization required to carry out the accounting system applied for enterprises? Are there double accounting systems for a single R&D organization (a system applied for business status and another applied for administrative

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<sup>7</sup> Another aspect which is not analysed in this paper deals with the situation when the realization of contracts for scientific research and practical implementation fail (since scientific research is risky activities and etc.)

status)? Is a R&D organization eligible to get tax incentives if it carries out the accounting systems for enterprises?

*c) Resolution No. 91/2014/ND-CP and implementation guiding documents<sup>8</sup>*

This document amends Term 3, Article 4, Resolution No. 218/2013/ND-CP to govern the regulations for tax exemption, namely: “Incomes generated from realization of contracts for R&D according to S&T legal regulations are tax exempted during the time of realization of contracts; the maximal tax-exempted time not exceeding 3 (three) years from the day of turnovers raised from realization of contracts for R&D; turnovers raised from sales of products made by new technologies applied for the first time in Vietnam according to legal regulations and MOST guidelines; the maximal tax-exempted time not exceeding 5 (five) years since the day of turnovers raised from sales of pilot products made during the time of pilot production according to legal regulations”.

The document amends also Term 3, Article 8, Circular No. 78/2014/TT-BTC, namely:

“3. Incomes generated from realization of contracts for R&D according to legal regulations on science-technology are tax exempted during the time of realization of contracts; the tax exempted time not exceeding 3 (three) years since the day of turnovers raised from realization of contracts for R&D;

Incomes generated from sales of products made by new technologies applied for the first time in Vietnam are tax exempted according to legal regulations and MOST guidelines; the tax exempted time not exceeding 5 (five) years since the day of turnovers raised from sales of products;

Incomes generated from sales of products made during the time of pilot production are tax exempted according to legal regulations.

- (i) Incomes generated from realization of contracts for R&D and eligible to be qualified for tax exemption need to meet the following terms and conditions:
  - Having a registration for scientific research;
  - Being certified by a competent State S&T agency to be contracts for R&D.
- (ii) Incomes generated from sales of products made by new technologies applied for the first time in Vietnam are tax exempted if they can secure

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<sup>8</sup> Resolution No. 91/2014/ND-CP dated 1<sup>st</sup> October 2014 by the Government reviewing and amending some articles of tax-related Resolutions, Circular No. 151/2014/TT-BTC dated 10<sup>th</sup> October 2014 by Ministry of Finance (MOF) guiding implementation of Resolution No. 91/2014/ND-CP dated 1<sup>st</sup> October 2014 by the Government reviewing and amending some articles of tax-related Resolutions.



that the used technologies get certified by competent State science agencies as technologies applied for the first in Vietnam”.

It is possible to say that Resolution No. 91/2014/ND-CP had amended some articles positively, namely: “Incomes generated from realization of contracts for scientific research and technological development are tax exempted according to legal regulations during the time of realization of contracts”. However, it is a regret that Circular No. 151/2014/TT-BTC does not, not only, clarify the status of beneficiaries of regulations for tax exemption but turns back to the “persistent shortage” which is expressed particularly in “but” in the first paragraph of Article 3, Resolution No. 91/2014/ND-CP and this revision does not make it observably different from Circular No. 78/2014/TT-BTC.

In addition to that, Law No. 71/2014/QH13 reviewing and amending some articles on taxes and implementation guiding documents<sup>9</sup> does not change any articles on incentives in terms of corporate income tax for R&D activities.

### ***3.3. Tax incentives as stipulated in VAT related legal regulation documents***

#### *a) Law on VAT, 2008 Year and implementation guiding documents<sup>10</sup>*

Commodities classified as not subject to VAT include: machines, equipment and materials classified as impossible to be produced locally and imported for direct use for activities of scientific research and technological development, and etc.

The tax rate of 0% is imposed to: “...commodities and services not subject to VAT for export as regulated in Article 5, Law on Added Values, excluding abroad going cases of technological transfer, concession of IP rights and etc”.

The tax rate of 5% is imposed to commodities and services: teaching and learning aids such as models, drawings, writing boards, chalks, rules, compasses, tools and equipments used specifically for teaching and learning purpose, activities of research and scientific experiments; and S&T services as regulated by Law on S&T.

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<sup>9</sup> Resolution No. 12/2015/ND-CP dated 12<sup>th</sup> February 2015 by the Government governing details for implementation of Law No. 71, 2014 Year and amending some articles of tax-related Resolutions, Circular No. 96/2015/TT-BTC dated 22<sup>nd</sup> June 2015 guiding implementation of corporate income tax as regulated by Resolution No. 12/2015/ND-CP and reviewing and amending some articles of Circular No. 78/2014/TT-BTC, Circular No. 119/2014/TT-BTC and Circular No. 151/2014/TT-BTC by MOF.

<sup>10</sup> Law on Added Values No. 13/2008/QH12 dated 3<sup>rd</sup> June 2008; Resolution No. 123/2008/ND-CP dated 8<sup>th</sup> December 2008 governing details for implementation of some articles of Law on Added Values and Circular No. 6/2012/TT-BTC dated 11<sup>th</sup> January 2012.

*b) Law reviewing and amending some articles of Law on Value Added Values (amended) No. 31/2013/QH13 dated 19<sup>th</sup> June 2013 and implementation guiding documents*

Commodities classified as not subject to VAT include: machines, equipment and materials classified as impossible to be produced locally and imported for direct use for activities of scientific research and technological development;

The tax rate of 0% is imposed to: "...commodities and services not subject to VAT for export as regulated in Article 5, Law on Added Values, excluding cases of technological transfer, concession of IP rights and etc. abroad".

The tax rate of 5% is imposed to commodities and services: teaching and learning aids such as models, drawings, writing boards, chalk, rules, compasses, tools and equipments used specifically for teaching and learning purpose, and activities of research and scientific experiments; and S&T services as regulated by Law on S&T (according to Term 5, Article 10, Circular No. 219/2013/TT-BTC: "S&T services are those activities which provide technical supports for scientific research and technological development; which are related to IP rights, technological transfer, standards, technical norms, metrology, product quality, commodities, radioactive safety, nuclear safety and atomic energy, which are related to services for information, consultations, training, qualification enhancement, propagation and application of S&T achievements in socio-economic sectors on basis of contracts for S&T services, as regulated by Law on S&T without including on-line games and internet-based attraction services).

*c) Resolution No. 91/2014/ND-CP and implementation guiding documents; Law No. 71/2014/QH13 reviewing and amending some articles of tax-related laws and implementation guiding documents*

These documents do not produce any changes of articles of VAT-related legal documents in terms of VAT incentives applied for R&D activities.

Nevertheless, it is possible to say about some shortages which remain in VAT-related documents, namely:

- Definition of the status of machines, equipment and materials classified as possible to be produced locally which would be backgrounds for identification of those commodities which are classified as impossible to be produced locally for direct use for activities of scientific research and technological development;
- Actual application of VAT payment. Actually, in fact, majority of enterprises pay VATs on basis of the invoice method of "tax payment

first and then reimbursement after”. From another side, VAT is exempted for S&T products according to Law on Added Values, but input taxes are not exempted. This means that the organizations/scientists have to pay for materials, equipment, stationary items, machine and equipment lease and transport services with bills including paid VATs. These VATs are big losses for organizations/scientists. The situation would turn absolutely different if the tax rate of 0% is applied for products made from activities of scientific research and practical implementation (*N.V. Hoc, 2005*).

#### ***3.4. Tax incentives as stipulated in import-export tax related legal regulation documents***

Law on Import-Export Tax 2005 Law on Customs 2005 and implementation guiding documents define the following regulations.

*The tax exemption is applied for cases:* (i) Commodities imported for direct use for activities of scientific research and technological development including: machines, equipment, parts, materials and transport means which are classified as impossible to be produced locally, and technologies which are classified as impossible to be created locally; S&T documentations, books, magazines, journals and electronic information sources; (ii) Materials and parts imported for production purpose in projects of sectors classified in the Priority List for particularly encouraged investments (they are exempted from import tax for a 5-year term since the start of production activities). Some typical cases are included in the Priority List of import-tax incentive sectors according to Resolution No. 87/2010/ND-CP dated 13<sup>th</sup> August 2010 which defines: Application of high techs and new techs which are not applied yet in Vietnam; Application of bio-techs (Item 12); Research, development and incubation of high techs (Item 15); ...Research of information technologies... (Item 21); Investments for R&D activities which take more 25% of turnovers (Item 22).

*Background for tax exemption consideration:* Import commodities which are special purpose items for direct use for scientific research (except cases stipulated in Term 13, Article 12, Resolution No. 87/2010/ND-CP) are eligible for import-tax exemption consideration.

This Resolution, however, still has some shortages, namely:

*First*, there are some differences in interpretation of the notions used in Article 12 (scientific research and technological development) and Article 13 (scientific research).

*Second*, there is, up to now, no detail regulations for criteria to define the status of projects indicated in the Priority List for import-tax incentives as noted in Annex 1 (which is issued as attachment to Resolution No. 87/2010/ND-CP).

*Third*, there is no clear interpretation for the status of materials and parts imported for production purpose in projects as indicated in Item 22 noted in Annex 1 (which is issued as attachment to Resolution No. 87/2010/ND-CP). Are they different from regulations noted in Term 8, Article 16?

### ***3.5. Tax incentives as stipulated in personal income tax related legal regulation documents***

In all the legal documents related to personal income taxes (Law on Personal Income Tax 2007 and implementation guiding documents, Law reviewing and amending some articles of Law on Personal Income Tax, 2012 Year, there is no terms and articles to deal with income tax incentives and the status of beneficiaries in relation to parts of incomes generated from realization of R&D contracts<sup>11</sup>.

## **4. Conclusions and recommendations**

In summary, it is possible to say the tax-related regulations which are presented in numerous law and sub-law documents reflect tax incentive trends for organizations and individuals carrying out R&D activities in particular and S&T activities in general. These tax incentives offer favorable conditions for enterprises to invest for R&D activities. However, legal documents for taxes applied for R&D activities in general and for R&D activities by enterprises in particular still have many limitations and shortages which can be seen in the following points.

### *a) Specific nature of S&T activities*

Financial expenditure for realization of S&T contract, in their natures (which are very much larger than activities of scientific research and technological development as noted in legal documents), are not subject to corporate income taxes because there is no generation of benefits during the whole process of activities including fundamental research, practical implementation, fabrication of prototypes, set-up of prototype procedures, test production and etc. From another side, any expenditures made for

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<sup>11</sup> A good signal: "Lecturers in universities get *personal income tax incentives for the part of incomes generated from contracts for scientific research and technological development* listed in priority and key sectors as well as from contracts realized in mountainous, remote and particularly difficult regions according to legal regulations (Point a, Term 1, Articles 10, Resolution No. 99/2014/ND-CP dated 25<sup>th</sup> October 2014 by the Government).

human resources, materials, machines, equipment and etc. already bear various taxes.

*b) Regulations stipulated in tax-related documents are not found consistent and have numerous shortages*

Many shortages were noted in legal regulations and documents to guide implementation of Law on Corporate Income Tax in power. In addition to that, there exist inconsistencies among legal regulations and documents for incentive measures in terms of corporation income tax, i.e. "...since the day of start of production of products according to contracts for scientific research and technological application, pilot production or production by new technologies..." (as stipulated in Term 2, Article 4, Resolution No. 124/1008/ND-CP and Term 2, Article 1, Resolution No. 122/2011/ND-CP) in comparison to "...since the day of start of realization of contracts for scientific research and technological development, the day of start of pilot production, the day of start of use of new technologies applied for the first time in Vietnam for production of products..." (as stipulated in Term 3, Article 8, Circular No. 123/2012/TT-BTC); the inconsistency in the same document, namely: "contracts for scientific research and technological development" in comparison to "contracts for scientific research and technological application" (as stipulated in Circular No. 78/2014/TT-BTC).

In addition to inconsistencies and conflicts in legal regulations and incentive policies applied for R&D activities as noted above, another problem is tax-related policies since 2005 have been revised, amended and changed too fast.

*c) Actual practice*

Practice in numerous enterprises exhibit difficulties in their access to incentive tax policies. This situation shows shortages ranging from preparation for issuance to implementation of incentive tax policies. In addition to that, many State agencies treat equally S&T activities, production-business activities and other ordinary service activities without dealing with S&T works in their specific nature. They are not aware properly about the values of products this specific type of labor can produce. This aspect was included in a survey made by National Agency for Technology Entrepreneurship and Commercialization Development (MOST) which made clearly that majority of enterprises face difficulties in their access to tax incentives. In addition to that, the inconsistencies among definitions of the status of S&T enterprises and regulations of application for tax incentives in the system of legal regulations for corporate income

tax embarrass enterprises in their procedure of application for tax incentives (*Pham Duc Nghiem, 2014; Mai Ha et al., 2015*).

Another practice also poses problems. Namely, some enterprises receive equipment to set up R&D facilities which are borrowed from partners or dislocated temporarily from abroad without factors of “establishment of assets”. This type of transfer does not constitute a purchase of assets then has no backgrounds for calculation of tax and this situation leads to difficulties in customs pass procedure (*Hoang Van Tuyen, 2014*).

#### *d) International trends*

In countries having the high level of S&T development, expenditures for realization of contracts for S&T activities, as rules, are exempted from taxes. In addition to that, in order to promote S&T activities by enterprises in private sector, many countries, both developed and developing, apply many incentive practice such as tax allowances, tax credits and tax compensations (*Dahlman, 2010; Van Pottelsberghe, 2003; OECD, 2002*). Some countries apply systems of progressive tax reductions in pace with annually increasing S&T investments by enterprises. In comparison to international practice, particularly the one in neighboring countries (Singapore, Malaysia, Thailand and Philippines), Vietnam does not issue any special tax incentives for R&D activities (*Yoon, 2005*).

On basis of the above noted limitations and shortages, it is necessary to promote R&D activities by Vietnamese enterprises through tax incentive measures, namely:

- Reviewing tax-related legal regulations for R&D activities (in a broader sense: S&T activities), removing limitations, shortages and inconsistencies which exist in current legal documents, on basis of specific natures of S&T activities and international trends as noted above.
- Conducting studies for pilot policies to encourage investments by enterprises for R&D activities through tax measures such as tax credits, tax allowances, and, in particular, progressive tax reductions applied for annually increasing investments for R&D activities (in percentage to global turnovers of enterprises). These measures are the most important ones applied by numerous countries including Singapore, Malaysia, Thailand and Philippines in the region./.

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