



**RHTLaw Vietnam**

International Capabilities Delivered Locally

The background image is an aerial view of a modern city skyline at dusk. The sky is a mix of blue and grey, with some clouds. The city is filled with tall buildings, many of which are lit up with warm lights. In the foreground, there is a river or a large body of water, and some lower-rise buildings and parking lots are visible. The overall scene is a vibrant and modern urban landscape.

**LEGAL UPDATES**  
**April 2021**

**Decree 18/2021/ND-CP dated 11 March 2021 of the Government Amending Decree 134/2016/ND-CP Guiding the Law on Import Tax and Export Tax (“Decree 18”)**

Effective date: 25 April 2021

Decree 18 amends and supplements several provisions in Decree No. 134/2016/ND-CP dated 01 November 2016 of the Government guiding the Law on Import Tax and Export Tax (“Decree 134”). Below are the notable points of Decree 18.

1. Conditions for export processing enterprises (“EPE”)

For the purpose of customs’ inspection and supervision, EPEs, as non-tariff zones, are obliged to satisfy certain conditions including maintaining (i) the separation fences, entrances and exits, (ii) the camera system connected to the customs authority and (iii) the management software of imported goods.

2. Exemption in case of export-manufacture involving outsourcing

Material imported for the purpose of manufacturing for export shall also enjoy duty exemption, even in case such materials are delegated to third parties for processing service. However, such outsourcing is only allowed in certain cases as specified in the newly issued Decree 18. Generally, the outsourced vendors should take charge of only a part of the production and adhere to all the customs provisions.

3. Notification of imported goods under List of duty-free ones

Decree 18 requires enterprises to submit to the local customs department a report on the use of duty exempted goods in the fiscal year. The procedure is mandatory until either:

- 3.1. the termination of the entire project; or
- 3.2. all of the goods have been (i) re-exported or (ii) changed in regard of use purpose, (iii) sold domestically, or (iv) scrapped.

4. Some other provisions in relation to duty exemption

- 4.1. Exemption procedure in accordance with the international treaties to which Vietnam is a party

The determination of duty exemption under international treaties is in Decree 134 based on the type, quantity and value of the goods stipulated in the conventions. However, in Decree 18, such basis is changed to the type and quantity only.

In case international treaties do not specify information of type and quantity eligible for duty exemption, the exemption shall be determined upon a confirmation of (i) the governmental body proposing signing or joining the treaty or (ii) the governmental body of specialized management instead of the Prime Minister’s approval as currently under Decree 134.

- 4.2. Duty exemption applied to goods that are imported to form fixed assets of projects enjoying investment incentives

Decree 18 supplements criteria for those eligible for duty exemption based on their industry, investment location, invested capital, revenue, labour force, and technology.

- 4.3. Duty exemption applied to goods imported for processing to export

Under Decree 134, scrap and redundant materials imported for processing are exempted from import duties when they are sold domestically. However, Decree 18 provides that only scrap generated from processing shall be entitled to import duty exemption when they are sold domestically.

## TECHNOLOGY

### Decision No. 10/2021/QD-TTg dated 16 March 2021 on Eligibility of Hi-tech Enterprises (“Decision 10”)

Effective date: 30 April 2021

Decision 10 replaces the prevailing Decision No. 19/2015/QD-TTg dated 15 June 2015 prescribing criteria for identifying hi-tech enterprises (“Decision 19”) with following key highlights:

#### 1. Changes in criteria

##### 1.1. Ratio of expenses on research and development (“R&D”)

The percentage of R&D expenses, which in the current Decision 19 is calculated per total net revenue, shall be in Decision 10 measured against the total net revenue after deducting input value.

##### 1.2. Ratio of R&D employees

- a. Decision 19 only takes into account R&D employees with university degrees or higher. However, R&D labour in Decision 10 additionally includes employees with college qualification.
- b. Besides, Decision 10 clearly specifies that R&D employees shall be those having signed (i) a labour contract with a term of at least one year or (ii) labour contract of indefinite term.

#### 2. Classification by enterprises’ scope

In Decision 19, enterprises are divided into two groups, namely (i) small and medium enterprises and (ii) enterprises with at least VND100 billion capital and 300 employees.

Meanwhile, in the newly issued Decision 10, enterprises are classified by their capital and staff number (details please refer to section 3 below).

#### 3. Detailed criteria

Accordingly, in addition to those conditions set out in Law on High Technology and Law on Investment, hi-tech enterprises must also meet following requirements:

Capital (VND)	Labour (employees)	Ratio of Revenue from hi-tech products to Total net revenue	Ratio of R&D Expenses to Total net revenue after deducting input value	Ratio of R&D employees with college qualifications (or higher) <sup>1</sup> to Total employees
From 6,000 billion	From 3000	70%	0.5%	1%
From 100 billion – less than 6 billion	From 200 – fewer than 3000		1%	2.5%
Less than 100 million	Fewer than 200		2%	5%

<sup>1</sup> To which the ratio of R&D employees with college qualifications does not exceed 30%

## Contributors

---



**Benjamin Yap (Mr.)**

Senior Partner  
Ho Chi Minh City Office  
Tel. (+84) 28 3820 6448  
[benjamin.yap@rhtlaw.com.vn](mailto:benjamin.yap@rhtlaw.com.vn)



**Le Thi Kim Quy (Ms.)**

Partner  
Ho Chi Minh City Office  
Tel. (+84) 28 3820 6448  
[quy.le@rhtlaw.com.vn](mailto:quy.le@rhtlaw.com.vn)

---

## Office details

---

>

RHTLaw Vietnam

Suite 1101, 11th Floor, Sofitel Central Plaza  
17 Le Duan Boulevard, District 1, Ho Chi Minh City,  
Vietnam

Tel: +84 28 38206 448

HCMC > Hanoi > Singapore > Phnom Penh

>

RHTLaw Vietnam – Hanoi Branch

Unit 1501B, 15th Floor, Charmvit Tower  
117 Tran Duy Hung Street, Cau Giay District  
Hanoi, Vietnam

Tel: + 84 24 3974 8881

HCMC > Hanoi > Singapore > Phnom Penh

---

**Disclaimer:** All materials have been prepared for general information purposes only. The information is not intended as, and should not be taken as, legal advice. Do not act or refrain from acting based upon information provided herein without first consulting our lawyers about your factual and legal circumstances.