

Order No. 22/2009/L-CTN of December 4, 2009, on the promulgation of law

THE PRESIDENT OF THE SOCIALIST
REPUBLIC OF VIETNAM

Pursuant to Articles 103 and 106 of the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001, of the Xth National Assembly, the 10th session;

Pursuant to Article 91 of the Law on Organization of the National Assembly;

Pursuant to Article 57 of the Law on Promulgation of Legal Documents,

PROMULGATES:

The Law on Royalties,

which was passed on November 25, 2009, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 6th session.

*President of
the Socialist Republic of Vietnam*
NGUYEN MINH TRIET

Law on Royalties

(No. 45/2009/QH12)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Royalties.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Law provides for royalty-liable objects, royalty payers, royalty bases, and royalty declaration, payment, exemption and reduction.

Article 2. Royalty-liable objects

1. Metallic minerals.
2. Non-metallic minerals.
3. Crude oil.
4. Natural gas, coal gas.
5. Natural forest products, other than animals.
6. Natural aquatic products, including marine animals and plants.
7. Natural water, including surface water and groundwater.
8. Natural swallow's nests.
9. Other resources prescribed by the National Assembly Standing Committee.

Article 3. Royalty payers

1. Royalty payers include organizations and individuals that exploit royalty-liable natural resources.

2. In some cases, royalty payers shall be defined as follows:

a/ For a mining enterprise established on the basis of joint venture, the joint-venture enterprise shall pay royalties;

b/ For Vietnamese and foreign parties to a business cooperation contract to exploit natural resources, the parties' liability to pay royalties must be specified in such contract;

c/ In case an exploiter conducts small-scale exploitation of natural resources and sells them to a principal purchaser that has a written

commitment or an approval to declare and pay royalties on the exploiter's behalf, the principal purchaser shall pay royalties.

Chapter II

ROYALTY BASES

Article 4. Royalty bases

Royalty bases include natural resource output used for royalty calculation, royalty-liable price and royalty rate.

Article 5. Natural resource output used for royalty calculation

1. For an exploited natural resource the quantity, weight or volume of which can be determined, the natural resource output used for royalty calculation is the quantity, weight or volume of natural resource actually exploited in a royalty period.

2. For an exploited natural resource the quantity, weight or volume of which cannot be determined because this natural resource contains different substances and impurities, the natural resource output used for royalty calculation shall be determined based on the quantity, weight or volume of each substance obtained from sorting and classification.

3. For natural resources which are not sold but used for turning out other products, if their actually exploited quantity, weight or volume cannot be directly determined, the natural resource output used for royalty calculation shall be determined based on the output of products turned out in a royalty period and the use norm of natural resource per unit of product.

4. For natural water used for hydropower generation, the natural resource output used for royalty calculation is the output of electricity sold by a hydropower generation establishment to an

electricity buyer under an electricity purchase and sale contract or the output of delivered electricity, in case such contract is unavailable, which is determined according to the metering system up to Vietnam's measurement and quality standards, certified by the purchaser and seller or the deliverer and recipient.

5. For natural mineral water, natural thermal water and natural water used for industrial purposes, the natural resource output used for royalty calculation shall be determined in cubic meter (m³) or liter (l) according to the metering system up to Vietnam's measurement and quality standards.

6. For natural resources exploited on a manual, scattered or mobile, irregular basis, if the planned output of exploited natural resources in a year is valued at under VND 200 million, a fixed output of exploited natural resources may be determined on a regular or seasonal basis for royalty calculation. Tax offices shall coordinate with local concerned agencies in determining the fixed output of exploited natural resources for royalty calculation.

The Government shall detail this Article.

Article 6. Royalty-liable prices

1. The royalty-liable price is the exploiter's selling price of a unit of natural resource product, exclusive of value-added tax.

2. In case the natural resource's selling price cannot be determined yet, the royalty-liable price shall be determined based on either of the following grounds:

a/ The regional market's actual selling price of a unit of natural resource product of the same grade, which must not be lower than the royalty-liable price set by the People's Committee of a province or centrally run city (below collectively referred to as provincial-level People's Committee);

b/ In case the exploited natural resource contains different substances, the royalty-liable price shall be determined based on the unit selling price and content of each substance, which must not be lower than the royalty-liable price set by the provincial-level People's Committee.

3. In some cases, the royalty-liable price shall be determined as follows:

a/ For natural water used for hydropower generation, it is the average selling price of commodity electricity;

b/ For timber, it is the selling price at the place of delivery; if the selling price at the place of delivery cannot be determined, the royalty-liable price shall be determined based on the royalty-liable price set by the provincial-level People's Committee;

c/ For exploited natural resources which are not domestically sold but exported, it is the export price;

d/ For crude oil, natural gas and coal gas, it is the selling price at the place of delivery. The place of delivery is a place agreed upon in the oil and gas contract under which the ownership over crude oil, natural gas and coal gas is transferred to the contractual parties.

4. Provincial-level People's Committees shall set specific royalty-liable prices of natural resources for which unit selling prices of natural resource products cannot be determined, except crude oil, natural gas, coal gas, and natural water used for hydropower generation.

The Government shall detail this Article.

Article 7. Royalty rates

1. The frame royalty tariff is specified below:

No.	Group or category of natural resource	Royalty rate (%)
I	Metallic minerals	
1	Iron and manganese	7-20
2	Titan	7-20
3	Gold	9-25
4	Rare earths	12-25
5	Platinum, silver and tin	7-25
6	Wolfram and antimony	7-25
7	Lead, zinc, aluminum, bauxite, copper and nickel	7-25
8	Cobalt, molybdenum, mercury, magnesium and vanadium	7-25
9	Other metallic minerals	5-25
II	Non-metallic minerals	
1	Soil exploited for ground leveling and work construction	3-10
2	Rock, except rock used for lime baking and cement production; gravel; sand, except sand used for glass-making	5-15

3	Soil used for brick-making	5-15
4	Granite and refractory clay	7-20
5	Dolomite and quartzite	7-20
6	Kaolin, mica, technical quartz, and sand used for glass-making	7-15
7	Pyrite, phosphorite, and stone for lime baking and cement production	5-15
8	Apatite and serpentine	3-10
9	Pit anthracite coal	4-20
10	Open-cast anthracite coal	6-20
11	Lignite and fat coal	6-20
12	Other coals	4-20
13	Diamond, ruby and sapphire	16-30
14	Emerald, alexandrite and black precious opal	16-30
15	Adrite, rodolite, pyrope, berine, spinel and topaz	12-25
16	Bluish-purple, greenish-yellow or orange crystalline quartz; chrysolite; white or scarlet precious opal; feldspar; birusa; and nephrite	12-25
17	Other non-metallic minerals	4-25
III	Crude oil	6-40
IV	Natural gas and coal gas	1-30
V	Natural forest products	
1	Timber of group I	25-35
2	Timber of group II	20-30
3	Timber of groups III and IV	15-20
4	Timber of groups V, VI, VII and VIII and of other categories	10-15
5	Tree branches, tops, stumps and roots	10-20
6	Firewood	1-5
7	Bamboo of all kinds	10-15
8	Sandalwood and calambac	25-30
9	Anise, cinnamon, cardamom and liquorice	10-15

10	Other natural forest products	5-15
VI	Natural aquatic resources	
1	Pearl, abalone and sea-cucumber	6-10
2	Other natural aquatic resources	1-5
VII	Natural water	
1	Natural mineral water, natural thermal water and refined natural water, bottled or tinned	8-10
2	Natural water used for hydropower generation	2-5
3	Natural water used for production and business activities, except water mentioned at Points 1 and 2 of this group	
3.1	Surface water	1-3
3.2	Groundwater	3-8
VIII	Natural swallow's nests	10-20
IX	Other resources	1-20

2. Specific royalty rates for crude oil, natural gas and coal gas shall be determined as partially progressive based on their daily exploited average output.

3. Pursuant to Clauses 1 and 2 of this Article, the National Assembly Standing Committee shall stipulate specific royalty rates for each category of natural resource in each period on the following principles:

a/ Ensuring conformity with the list of groups and categories of natural resource and within the royalty rate bracket prescribed by the National Assembly;

b/ Contributing to the state management of natural resources; protection, exploitation and rational, economical and effective use of natural resources;

c/ Contributing to assuring state budget revenues and market stabilization.

Chapter III

ROYALTY DECLARATION, PAYMENT, EXEMPTION AND REDUCTION

Article 8. Royalty declaration and payment

Royalty payers shall register, declare, calculate and pay royalties under the law on tax administration.

Article 9. Royalty exemption and reduction

1. Royalty payers that encounter natural disasters, fires or unexpected accidents, causing losses of natural resources for which royalties have been declared and paid, may be considered for exemption from or reduction of payable royalties for the lost volumes of natural resources. The paid royalty amount will be refunded or cleared against the subsequent period's payable royalty amount.

2. Royalties are exempted for natural aquatic resources.

3. Royalties are exempted for tree branches and tops, firewood and bamboo of all kinds which individuals are permitted to exploit for their daily-life needs.

4. Royalties are exempted for natural water used for hydropower generation by households and individuals for their daily-life needs.

5. Royalties are exempted for natural water used for agriculture, forestry, fishery and salt-making; natural water exploited by households and individuals for their daily-life needs.

6. Royalties are exempted for soil exploited and used right on allocated and leased land areas; and soil exploited for ground leveling and construction of security and military works and dikes.

7. Others cases eligible for royalty exemption or reduction as prescribed by the National Assembly Standing Committee.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 10. Effect

1. This Law takes effect on July 1, 2010.

2. On the effective date of this Law, the following legal documents cease to be effective:

a/ Ordinance No. 05/1998/PL-UBTVQH10 on Royalties;

b/ Ordinance No. 07/2008/PL-UBTVQH12 Amending and Supplementing Article 6 of the Ordinance on Royalties.

3. For investment projects or oil and gas contracts signed before July 1, 2010, with royalties specified in their investment licenses, investment certificates or oil and gas contracts, the provisions

of these investment licenses, investment certificates or signed oil and gas contracts apply. In case royalty incentives indicated in these investment licenses, investment certificates or oil and gas contracts are lower than those provided in this Law, the royalty incentives specified in this Law will apply for the remaining duration.

Article 11. Implementation detailing and guidance

The Government shall detail and guide the implementation of articles and clauses assigned to it under this Law; and guide other necessary contents of this Law to meet state management requirements.

This Law was passed on November 25, 2009, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 6th session.

Chairman of the National Assembly
NGUYEN PHU TRONG