

**THE MINISTRY OF INDUSTRY
AND TRADE**

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

No. 55/2015/TT-BCT

Ha Noi, day 30 month 12 year 2015

Circular

on regulation on procedures for incentive certification and verification of projects for manufacturing of ancillary products on the list of prioritized ancillary products

Pursuant to the Decree No. 95/2011/ND-CP on functions, responsibilities, power and organizational structure of The Ministry of Industry and Trade dated November 12, 2012 of the Government.

Pursuant to the Law No. 71/2014/QH13 amending and supplementing a number of articles of the Law on Taxation;

Pursuant to the Decree No. 111/2015/ND-CP on development of ancillary industry dated November 11, 2015 of the Government.

At the request of the Director of the Department of Heavy Industry;

The Minister of Industry and Trade issues this Circular regulating procedures for incentive certification and verification of projects for manufacturing of ancillary products on the list of prioritized ancillary products.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of adjustment

This Circular regulates procedures for incentive certification and verification of projects for manufacturing of ancillary products (hereinafter referred to as the project) on the list of ancillary products promulgated in the Decree No. 111/2015/ND-CP on development of ancillary industry dated November 03, 2015 of the Government.

Article 2. Subject of application

This Circular applies to entities that manufacture ancillary products on the list of ancillary products given priority in Vietnam (hereinafter referred to as the List).

Article 3. Interpretation of terms

For the purpose of this Circular, terms below are construed as follows:

1. Ancillary products mean products in the industries of materials, accessories, components and spare parts used for finished goods.

2. A competent authority means the agency taking charge of receipt and processing of incentive certification applications:

- a) The competent authority of the Ministry of Industry and Trade: the Department of Heavy Industry;
- b) Competent authorities of provinces: regulatory authorities appointed by People's Committees of provinces under Article 15 of Decree No. 111/ND-CP on development of ancillary industry dated November 03, 2015.

3. A new investment project for manufacturing of ancillary products means:

- a) Every first-time investment project or project that comes into operation independently of the existing project (hereinafter referred to as an independent project);
- b) Every existing project that is entitled to scope expansion, capacity enhancement, technological innovation in manufacture of ancillary products using new devices and manufacturing processes with an increase in productivity by at least 20%.

4. Small and medium-sized enterprises (SMEs) mean every enterprise defined by laws on SMEs.

Article 4. Projects eligible for enterprise income tax incentives

Every new investment project that is eligible for enterprise income tax incentives under regulations of laws No. 71/2014/QH13 amending and supplementing a number of articles of the Law on taxation dated November 23, 2014 shall manufacture ancillary products that satisfy one of the following requirements:

- a) The list of ancillary products given priority in Vietnam that are manufactured before January 01, 2015 (Appendix 1 hereof) and granted a Certificate of Conformity to EU technical Regulations (standards promulgated by CEN - European Committee for Standardization) or equivalents (if any);
- b) All ancillary products on the List compiled on the Decree No. 111/2015/ND-CP on development of ancillary industry dated November 03, 2015 of the Government but not included in Appendix 01 of this Circular.

Chapter II

PROCEDURES FOR INCENTIVE CERTIFICATION AND VERIFICATION

Article 5. Applications for procedures for incentive certification

1. The number of applications:

- a) 06 copies: 01 original and 05 duplicates;
- b) The application shall be sealed and the applicant's information shall be specified on the file folder;

c) Where changes in the project that affect the conditions for investment incentives, the applicant shall submit the competent authority an additional application in which the scope of changes includes.

2. Documents requested in an application:

a) A written request for incentive certification (Appendix 2 hereof);

b) A Certificate of Enterprise Registration or Certificate of Business Registration;

c) A description of the project:

- With respect to a first time project or an independent project: an proposal for project investment under the current regulations of laws on investment and construction;

- With respect to an existing project:

+ A description of current status of its manufacturing process, facilities (plants), machines and equipment (a list of machines and its capacity, specialized equipment; measuring and quality control devices); the project's capacity; the latest annual internal audit report (or an annual financial statement);

+ A description of investment in scope expansion, technical innovation using new devices and manufacturing processes with an increase in productivity by at least 20% under the current regulations of laws on investment and construction.

d) The decision on approval for environmental impact assessment (if new investment projects) or a commitment to environmental protection under the law on environmental protection or an as-built certificate, and environmental protective measures (if existing projects).

dd) A Certificate of conformity to EU technical regulations (standards promulgated by CEN - European Committee for Standardization) or the equivalent (if any) granted by certifying agencies that are permitted to exercise certification activities under regulations of laws on product quality;

3. Application recipients:

a) Every SME shall submit their application for the project for manufacturing of ancillary products on the List to the competent authority where the project is located or the Ministry of Industry and Trade. Each SME must submit its application to only one competent authority;

b) Other types of businesses shall submit their applications to the Ministry of Industry and Trade (address: 54 Hai Ba Trung street, Hoan Kiem district, Hanoi).

4. Options for application submission:

Directly or online.

Article 6. Scope of project appraisal

1. The observance of regulations of the Decree No. 111/2015/ND-CP on development of ancillary industry dated November 11, 2015 of the Government.
2. Legal proceedings
3. Project feasibility and rationality of technological-technical solutions that apply to the project.
4. Financial ability, and the effectiveness of the project.
5. The viability of the environmental protective measures.

Article 7. Power to certify incentive

1. The competent authority of a local government where the project is located or the Ministry of Industry and Trade shall carry out the incentive certification of such project of SMEs.
2. The Ministry of Industry and Trade shall carry out the incentive certification of projects for manufacturing of ancillary products that are invested by other type of businesses.

Article 8. Time limit for certification

1. Within 05 working days, the competent authority shall examine the validity and completion of the application. In case of an incomplete or invalid application, the competent authority shall request the applicant to supplement his/her application in writing.
2. For a complete and valid application, within 15 working days, the competent authority shall appraise such application or carry out a site inspection, if necessary. The competent authority shall send a notification of the result of incentive certification to the applicant within 30 working days.

Article 9. Verification and withdrawal of certificates of incentives

1. Procedures for verification:

a) Inspecting authorities:

- The Ministry of Industry and Trade shall take charge of and cooperate with relevant Ministries, Departments and agencies to carry out inspections of projects under incentives nationwide

- The Ministries of Industry and Trade of provinces shall take charge of and cooperate with relevant Ministries, Departments and agencies to inspect projects that benefit from incentives within their provinces

b) Methods of inspection:

Surprise inspection or periodic inspection, conducted by the Ministry of Industry and Trade or Department of Industry and Trade at requests of the State management authority.

c) Scope of inspection

- Legal documentary inspection;
- Facility inspection;
- Inspection of incentives from which the project benefits
- Project progress inspection;
- Inspection of ancillary products of the project eligible for incentives.

The inspection shall be made in record. Any violations found shall be reported to the competent authority by the Inspectorate.

2. Withdrawal of the certificate of incentives:

The certificate of incentives shall be withdrawn and the defaulting entity shall compensate for the granted incentives in the following cases:

- a) The investor does not report changes in ancillary products under incentives to the competent authority;
- b) After 18 months from the date of incentive certification, there are no ancillary products mentioned on the application for incentive certification;
- c) Any case is petitioned by the inspectorate.

Chapter III

RESPONSIBILITIES AND IMPLEMENTATION

Article 10. Entity's responsibilities

Every entity benefited from incentives shall submit an annual report on the manufacture and trade in ancillary products under incentives

Article 11. Responsibilities of State regulatory authorities

1. The Department of Heavy Industry shall:

- a) Process applications and consult with Ministries, departments and relevant authorities (if any) on verification;
- b) Inspect and instruct entities that manufacture ancillary products on the list in the implementation of this Circular and relevant laws on manufacturing of ancillary products.
- c) Take charge of and cooperate with relevant Ministries, departments and agencies to carry out surprise and periodic inspections of projects provided with incentives.

2. The competent authority of local government where the project is located shall take charge of and cooperate with units under provinces to:

- a) Process applications and consult with relevant departments on verification;
 - b) Inspect and instruct entities that manufacture ancillary products on the list in the implementation of this Circular and relevant laws on manufacturing of ancillary products.
 - c) Submit one original of the certificate of incentives to the Department of Heavy Industry – Ministry of Industry and Trade and 01 duplicate to the Department of Industry and Trade (if the Department of Industry and Trade is not the competent authority of local government where incentives are certified).
 - d) Annually submit an report aggregate report on projects eligible for incentive certification to the Department of Heavy Industry – Ministry of Industry and Trade .
3. The Departments of Industry and Trade of provinces shall take charge of and cooperate with relevant Ministries, Departments and agencies to carry out surprise or periodic inspection of projects that benefit from incentives within their provinces

Article 12. Effect

1. This Circular takes effect on January 01, 2016.
2. Any problems arising in the course of implementation of this Circular shall be promptly reported to the Ministry of Industry and Trade.

The Minister

Vu Huy Hoang