Client Alert

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Comparative analysis of export processing enterprises and non-export processing enterprises

In the rapidly evolving global economy, businesses continuously seek ways to optimize operations, reduce costs, and enhance competitiveness. One significant strategy involves understanding and leveraging the differences between Export Processing Enterprises (EPEs) and Non-Export Processing Enterprises (Non-EPEs) under Vietnamese law. Vietnam, with its strategic location, favorable trade agreements, and dynamic economic policies, has become an attractive destination for foreign investors and multinational companies.

An EPE is a type of business entity designed to facilitate the production and export of goods. These enterprises benefit from specific incentives, including tax breaks and simplified customs procedures, aimed at promoting exports and attracting foreign investment. In contrast, Non-EPEs operate under a broader set of regulations and do not enjoy the same level of incentives as EPEs. They engage in a wide range of business activities, both domestically and internationally.

This article offers a concise comparison of EPEs and Non-EPEs under Vietnamese law, aiming to help investors and business owners make informed decisions. Specifics may vary based on the business and location of operation, among other factors.

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Definition

Export Processing Enterprises (EPEs)

An export processing enterprise operates within an export processing zone, industrial zone, or economic zone and focuses on the manufacturing of goods for export. Additionally, EPEs provide services related to the production of export goods and other export activities. These enterprises must ensure that storage areas for export goods are clearly separated from those used for non-export processing business activities. All revenues and expenses related to export processing must be recorded separately. Importantly, equipment eligible for tax incentives granted to EPEs cannot be used for non-EPE business activities. If such usage occurs, all granted tax incentives must be returned.

Non-Export Processing Enterprises (Non-EPEs)

A non-export processing enterprise is a regular business entity established under Vietnamese law for general business purposes. It has its own name, assets, and premises and carries out activities registered with the relevant authorities. Unlike EPEs, Non-EPEs do not face stringent requirements related to export processing zones.

Scope of Activities

An export processing enterprise is involved in manufacturing goods specifically for export. It also provides services that support the production of these goods and services directly related to export activities. EPEs may engage in other business activities as allowed by relevant laws, provided they meet specific conditions. These conditions include maintaining separate storage areas for export goods and ensuring that tax incentives are not misused for other business activities.

Conversely, A non-export processing enterprise engages in a broad range of activities that are registered with the authorities, subject to relevant operational conditions.

Process of Formation

To establish an export processing enterprise, the investor must obtain an Investment Registration Certificate (IRC) and an Enterprise Registration Certificate (ERC). The process involves submitting a written commitment to satisfy customs inspection and supervision conditions. Depending on the specifics of the investment project, the investor may also need to seek investment policy approval. The requirements for establishing an EPE are more stringent compared to those for a Non-EPE.

The process of establishing a non-export processing enterprise involves obtaining an IRC (if applicable) and an ERC. The establishment process for Non-EPEs is generally less stringent and does not require a certificate of satisfaction of customs supervision and inspection conditions.

Operational Conditions

An export processing enterprise must be physically separated from the outside environment by fences, with controlled entry and exit points that meet the requirements of customs authorities. To benefit from tax incentives, EPEs must obtain a certificate of satisfaction of customs supervision and inspection conditions. This includes implementing surveillance cameras at storage entrances and exits, with images retained for at least 12 months. Additionally, EPEs must use software to manage duty-free goods and comply with customs regulations. Necessary import/export permits must also be obtained for certain products.

Non-export processing enterprises must meet operational conditions related to their registered business activities and secure any ancillary permits required.

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Tax Policies

Export processing enterprises benefit from several preferential tax policies. These include reduced corporate income tax (CIT) rates of 17% for ten years or 10% for fifteen years, depending on the project type. EPEs may also receive a two-year tax exemption followed by a 50% tax reduction for the next four years for certain new projects. Additionally, EPEs enjoy non-taxation of import/export tax and value-added tax (VAT) for specific commodities, including goods imported for use within the export processing zone and commodities traded between non-tariff zones. EPEs are also eligible for a seven-year land rent exemption.

Non-export processing enterprises are subject to standard tax policies, including a corporate income tax rate of 20% and varying VAT rates of 0%, 5%, or 10% depending on the commodity. While Non-EPEs do not benefit from the specific tax incentives available to EPEs, they may qualify for other tax incentives based on their particular business operations.

Other Activity Considerations

Access to export processing enterprises is restricted to investors, employees, and individuals with a working relationship with the EPE. EPEs are required to operate exclusively within export processing zones, industrial zones, or economic zones.

Non-export processing enterprises do not face restrictions on who may enter their premises. Additionally, Non-EPEs are not limited by geographical constraints in their operations, allowing them greater operational flexibility.

For more detailed information or legal advice on establishing or operating an EPE or Non-EPE in Vietnam, please contact VILAF.

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