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Reforming Corporate Income Tax Laws to Support Circular Economy Development in Vietnam

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Abstract: ***The development of a circular economy is an objective in the pursuit of sustainable economic growth. Corporate income tax is a direct tax and an economic instrument; its legal framework significantly influences the process of developing a circular economy. To ensure that corporate income tax truly serves as an economic tool that positively impacts the development of a circular economy in the context of increasingly deep and broad international economic integration, a comprehensive legal framework for corporate income tax must be established. The current legal system regarding corporate income tax in Vietnam serves as a key legal tool in facilitating the transition from a traditional economy to a circular economy and promoting the development of a circular economy. However, several legal and structural shortcomings continue to hinder the effective development of a circular economy. The research systematically examines corporate income tax laws to inform the development of a circular economy in Vietnam, aiming to identify improvement solutions.***

Keywords: Circular Economy, Corporate Income Tax, Tax incentives, Viet Nam, sustainable development

1. Introduction

The circular economy is an economic model based on the fundamental principle "Everything is an input for something else"-first used by Pearce and Turner (Pearce, D. W. and R. K. Turner, 1990). Accordingly, the circular economy transforms the waste output of one sector into the input resources of another industry or recycles it within a business's internal operations. The circular economy, with its closed-loop system, is applied: reuse, recycle, and recover, aiming to achieve the goal of "extending the lifespan of materials". This approach minimizes resource input and waste generation, thereby eliminating negative environmental impacts.

There are three principles of the circular economy: (i) conserving and improving natural resources by controlling limited resources and balancing the flows of renewable resources; (ii) optimizing resource use by recycling products, product components, and materials throughout both the technical and biological cycles; (iii) promoting the efficiency of the system by identifying vulnerabilities and eliminating negative external impacts (Ellen MacArthur Foundation, 2013).

The transition to a circular economy in the 21st century is a complex process that requires broad participation from all stakeholders across all segments of society, from central to local, from businesses to individuals (Ekvall et al., 2016). In Vietnam, Clause 1, Article 142 of the 2020 Environmental Protection Law stipulates: "A circular economy is an economic model in which design, production, consumption, and service activities aim to reduce the extraction of raw materials, extend product lifespans, limit waste generation, and minimize adverse environmental impacts”.

Corporate income tax is a direct tax levied on the income generated from an enterprise's business activities. In essence, a business is both the taxpayer and the tax bearer. The subject of taxation is enterprises with income arising from production and business activities, as well as other income, as regulated (Nguyễn Thị Lan Hương, 2015). From the perspective of public finance, corporate income tax is a direct tax levied on the taxable income of businesses (Richard A. & Peggy B., 1989). Corporate income tax is a tool that helps the government control the economy, and it also has a substantial impact on financial issues, investment, and corporate behavior (Joseph E. Stiglitz, 2010).

Corporate income tax can only arise based on tax law, primarily the Tax Law. The law on corporate income tax includes a system of legal regulations governing corporate income tax relations. The main contents of corporate income tax law that directly impact the circular economy include: (i) regulations on the basis and method of calculating corporate income tax; (ii) regulations on corporate income tax incentives.

2. The impact of corporate income tax law on the circular economy

In countries with market economies and under conditions of international economic integration, corporate income tax is used as one of the tools for macroeconomic regulation. Through regulations on tax rates, levels of tax incentives, deductible expenses, etc., for each sector, industry, and type of enterprise, the state implements policies to focus on developing or encouraging specific sectors, industry, and enterprises, guiding the transition towards a circular economy, digital economy, etc., or restraining economic activities that are detrimental to development. For the circular economy, corporate income tax laws can either promote or hinder development depending on whether the regulations are appropriate or not. These impacts are not limited to the national scope but also extend globally. To develop a circular economy, it is suggested to reduce corporate income taxes for businesses that engage in circular economy activities, such as recycling, waste sorting and processing, and reuse (Hartley, K., Santen, R., & Kirchherr, J., 2020).

Corporate income tax laws have a direct impact on the development of a circular economy through regulations that reduce or exempt taxes for businesses engaged in circular economic activities. As a results, businesses gain additional financial resources to invest or reinvest in circular economy development, thereby increasing profits for the company and its investors. The corporate income tax legal system is the legal basis that generates corporate income tax relationships, influencing the development of a circular economy in the following direction:

Firstly, imposing high taxes on non-circular businesses and economic activities can direct development towards a circular economy. Corporate income tax can also be designed as a penalty measure for businesses whose activities harm sustainable development, such as increasing taxes on activities harmful to the environment, engaging in excessive carbon emissions, or over-exploiting permitted resources (Trần Anh Tuấn, 2024).

Secondly, corporate income tax law is a legal tool that encourages businesses to invest long-term in the development of a circular economy, through incentive regulations such as tax reductions, tax exemptions, or provisions for environmental protection and investments in new technologies expenses to increase circularity in the production process, using waste from one production stage as raw materials for the next stage's products, etc., which are deductible expenses when calculating taxable income.

Thirdly, it is necessary to set regulations on corporate income tax incentives for entities engaged in circular economy activities, the production of environmentally friendly products, and the generation of renewable energy. The regulation of tax rate incentives, tax exemptions, reductions, and deductions. . . encourages recycling, efficient resource use, and the use of recycled products. . . (for example, regulations on deducting credit payments when businesses invest in technology, research costs… for the development of a circular economy).

Fourth, corporate income tax generates revenue for the state budget, which is then reinvested in circular economic development.
Therefore, if a comprehensive, suitable, and well-suited legal framework for corporate income tax exists that meets the requirements for developing a circular economy, it will become an effective tool in promoting sustainable circular economic development. This study aims to evaluate the existing corporate income tax framework in Vietnam and propose legal reforms to enhance its role in supporting circular economy development.

3. Research Methodology

The article applies the methodologies of dialectical materialism and historical materialism to examine the relationship and mutual impacts between corporate income tax, corporate income tax law, and the circular economy. Researching the practical implementation of corporate income tax law in the context of transitioning from a linear economy to a circular economy in Vietnam today to propose appropriate solutions.

Specific research methods:

1) *Interdisciplinary and multidisciplinary approach*: This method is used to study interdisciplinary and multidisciplinary aspects of economics, society, and law, thereby clarifying the nature of the circular economy, the economic and legal nature of corporate income tax, and examine the impact of corporate income tax, corporate income tax law on the circular economy in the 4.0 revolution, the market economy, and international economic integration.
2) *Method of analysis and legal economic analysis*: This method is used to identify the nature of the circular economy, the economic needs of entities within the circular economy, corporate income tax, and the main contents of corporate income tax law that impact the formation and development of the circular economy. It is also used to analyze the current state of the corporate income tax legal system in Vietnam regarding the circular economy and propose solutions.
3) *Comparative method*: This method is used to compare the current state of the corporate income tax legal system in Vietnam with the economic needs of entities in the circular economy and the nature of the circular economy, providing an accurate assessment and proposing appropriate solutions. Additionally, the comparative legal method is employed to compare Vietnam's regulations on corporate income tax with those of other countries, addressing the research issue.

4. Current state of corporate income tax law for circular economy development in Vietnam

The significance of this study lies in its potential to guide tax policy reforms that align Vietnam's economic development with sustainability objectives, offering a model for other emerging economies.

In Vietnam, the transition from a traditional economy to a circular economy, aimed at sustainable development, is an inevitable trend, similar to many countries around the world. However, there are no models that fully embody the connotations of a circular economy yet. Currently, investment activities implementing the circular economy can receive incentives similar to those for environmental protection activities. The main incentive policies include tax exemptions and reductions, preferential interest rate loans, and support for site clearance. . . The state issues tax incentives for industrial activities to promote the development of the circular economy through corporate income tax exemptions and reductions (Pham Thi Thanh Tam, 2021).
The impacts of corporate income tax laws in Vietnam today on the development of a circular economy mainly occur through the following two groups of regulations:

First, the regulations on the basis and method of calculating corporate income tax impact the development of a circular economy:

According to the current Corporate Income Tax Law in Vietnam, the tax base is the taxable income and the tax rate.

Taxable income for the tax period = Taxable income – (tax-exempt income and losses carried forward from previous years)

Taxable income = Revenue-deductible expenses from business operations + other income (including income received from outside Vietnam)

Tax calculation method: the corporate income tax payable in the tax period = the taxable income x the tax rate.

Thus, through regulations on tax-exempt income, deductible expenses when calculating taxable income, and tax rates for circular economy activities when calculating corporate income tax, the amount of income tax payable is ensured to be lower than that of non-circular activities, increasing investment capacity, boosting profits for businesses and investors, and encouraging the development of a circular economy.

Tax-exempt income related to encouraging the development of a circular economy includes: Income from the transfer of emission reduction certificates of, income from the implementation of scientific research and technology development contracts, products in the trial production period, products made using new technology first applied in Vietnam, income from investment activities, joint ventures, and partnerships with domestic enterprises, after corporate income tax has been paid, income from technology transfer in prioritized fields for organizations and individuals in areas with challenging socio-economic conditions, grants received for educational and scientific research activities, the undistributed income of the institution implementing socialization in the field of education and training.

Expenses are deductible according to the provisions of Clause 1, Article 9 of the Corporate Income Tax Law, which includes regulations related to encouraging the development of a circular economy. On the other hand, there are regulations aimed at reducing the tax payable, increasing financial resources for research and development in general, and specifically for the development of a circular economy. For example, in Article 9 of Decree No.95/2014/ND-CP regulating investment and financial mechanisms for scientific and technological activities, enterprises in Vietnam that establish a science and technology development fund can allocate up to 10% of their annual taxable income to set up the fund. In addition, losses incurred during the tax period (up to a maximum of five years) are carried forward to the following year when calculating taxable income, aiming to encourage businesses to invest in new technologies or innovate and develop technologies to implement a circular economy.

Regarding the tax rate: From January 1, 2006, the standard tax rate is 20%. Businesses engaged in circular economy activities that meet the conditions will enjoy preferential corporate income tax rates of 20% or less. It could be a 10% rate for a limited period or throughout the project's duration to develop a circular economy and protect the environment.

Secondly, *regulations on corporate income tax incentives (preferential tax rates, tax exemptions, tax reductions) impact the development of a circular economy.*

According to the current corporate income tax law in Vietnam, new investment projects, expanded investment projects, high-tech enterprises, and high-tech agricultural enterprises that meet the specified conditions will be eligible for corporate income tax incentives.

The preferential tax rate in cases aimed at developing a circular economy is either 10% or 17%. For example, a tax rate of 10% for a period of 15 years applies to the income of enterprises from implementing new investment projects in the fields of: scientific research and technology development; production of renewable energy, clean energy, energy from waste disposal; income of enterprises from implementing new investment projects for environmental protection such as producing environmental pollution treatment equipment; collecting and treating wastewater, exhaust gas, solid waste; recycling, reusing waste; high-tech enterprises, high-tech agricultural enterprises; . . .

The results from various policies for developing a circular economy, including the impact of corporate income tax laws, have led to an annual increase in the number of businesses engaged in circular economic activities. According to data from the General Statistics Office, the number of enterprises operating in the field of waste collection, treatment, recycling, and reuse has significantly increased compared to the period before 2012. As of 2021, the number of enterprises engaged in circular activities was 1, 584, an increase of 1, 037 enterprises (189.58%) compared to 2012.

Among them, several exemplary enterprises can be mentioned. Tuyen Quang Timber and Mineral Joint Stock Company, which specializes in producing high-tech Tuynel bricks, utilizes raw materials such as waste soil from mineral extraction sites and solid waste, including broken bricks and demolished concrete, in its production process, employing circular technology. Nam Viet Joint Stock Company (Navico) has established a model Tra fish farming area using solar energy, a water recycling process, and minimizing waste discharge into the environment. Nestle has utilized coffee grounds separated after processing as biomass fuel for boilers, and waste sand from the boilers has been provided to local brick manufacturers to produce non-fired bricks for construction projects (Minh Hai, 2024). Heineken Vietnam has reused or recycled about 99% of the waste and by-products from the production process. Spent grains and leftover yeast are recycled into fertilizers or animal feed, 100% of wastewater is safely treated for use in irrigation and sanitation at the factories, and Tiger beer caps are recycled into iron materials for building bridges. . . In agriculture, models such as the garden-pond-pen and the garden-forest-pond-pen have been proposed (Pham Thi Thuy Van, Nguyen Thi Nguyet, 2024).

The above results are partly due to the positive impact of corporate income tax laws, as the corporate income tax not paid due to tax incentives has been invested and reinvested into the development of a circular economy. Although there are currently no direct regulations on corporate income tax for circular economy development in Vietnam, existing regulations and practical implementation have demonstrated the positive impact of corporate income tax laws on circular economy development. It resulted in an increase in the number of newly established businesses engaging in the circular economy or increased investments in the circular economy. However, there are still many shortcomings that need to be addressed.

The main shortcomings include:

Firstly, the system of legal regulations on corporate income tax for the circular economy remains fragmented, making it difficult to monitor and implement. The rules on corporate income tax affecting the circular economy in Vietnam are currently in various legal documents, including: the Corporate Income Tax Law (Corporate Income Tax Law 2008; Law (2013) amending and supplementing particular articles of the Corporate Income Tax Law; Law (2014) amending and supplementing specific tax articles laws; Investment Law 2020; Petroleum Law 2022; Law on Examination and Treatment of Diseases 2023, and related specialized laws, along with implementation guidelines (decrees, circulars on corporate income tax). Thus, the regulations on corporate income tax are not only stipulated in the legal documents on corporate income tax but also in many other specialized legal documents, which have caused difficulties in the implementation.

Secondly, the legal system on corporate income tax lacks suitability and lacks legal provisions that directly regulate the development of a circular economy.
The regulations on the basis and method of calculating corporate income tax affecting the development of a circular economy are still missing regulations to determine different tax obligations for different cases when producing products where the raw materials are natural resources compared to cases where the raw materials are sourced from waste of the previous process, from other enterprises, recycling, reuse… It also lacks regulations on the calculation of taxable income for businesses engaged in the circular economy, when businesses purchase and use equipment to produce energy-saving, water-saving, and recycled products. The corporate income tax law, which stipulates a maximum deduction rate of 10% of the annual taxable income to establish the enterprise's science and technology development fund, is applied to all circular or non-circular economic activities, lacking encouragement for the development of a circular economy.

The experience of some countries
Regulations on the basis and method of calculating corporate income tax (including provisions on deductible expenses, tax-exempt income, and tax rates) impact the development of a circular economy. In Malaysia, the law permits the doubling of certain expenses when calculating corporate income tax, including expenses for promoting and developing exports, training costs for employees, research and development expenses, expenses related to information technology, computer support, and internet connectivity (VEPR, 2020). Companies in Malaysia that have been operating for 36 months or more and have invested capital to expand, automate, and modernize their current manufacturing businesses or agricultural operations are eligible for reinvestment grant incentives (Global Link Asia Consulting Pte. Ltd., 2018). In China, if a business purchases and uses special equipment listed in the regulations for environmental protection, energy and water conservation, and safe production, the cost of purchasing the equipment can be deducted from corporate income tax by 10% (Pham Thi Thanh Tam, 2021).

Direct regulations on corporate income tax incentives (preferential tax rates, tax exemptions, tax reductions) directly impact the development of a circular economy.
There is still a lack of legal regulations regarding tax incentives to encourage the development of a circular economy and optimize resource usage methods. For example, there is a lack of regulations to encourage businesses to utilize solid waste, emissions, and wastewater from other businesses or their previous stages as the primary raw materials for producing products in subsequent stages.

There is still a lack of tax exemption regulations for businesses implementing a circular economy, which discourages them. For example, in Clause 8, Article 4 of the Corporate Income Tax Law, income from the transfer of Certified Emission Reductions (CERs) by enterprises is exempt from corporate income tax. However, there is no tax exemption for income from the transfer of other emission reduction certificates that are not CERs for enterprises engaged in circular economy activities. There are also no tax exemptions for income from the first transfer of carbon credits after issuance, etc.

Some preferential regulations on corporate income tax rates lower than 15% of taxable income are no longer effective in encouraging multinational corporations with revenues over 750 million EUR that engage in circular economic activities, according to the Global Minimum Tax (GloBE) regulations.

China's experience: Corporate Income Tax Law (2007), amended and supplemented in 2017, 2018, regulates tax rates, tax calculation methods, tax exemptions, and tax deductions. . . The general tax rate applied is 25%, while a preferential tax rate of 15% is granted in the high-tech and new technology industries, including biotechnology, new materials, and new energy; environmental protection and energy-saving industries, including energy-saving and environmental protection equipment, renewable energy; Agriculture, forestry, livestock, and aquaculture industries, including the development of new plant, animal, and aquatic species. . . (Nguyen Thanh Luan, 2024).

Until now, in Vietnam, there are still no direct regulations on corporate income tax that directly impact the development of a circular economy due to the lack of a comprehensive legal framework for the circular economy.

5. Some recommendations to improve corporate income tax laws for the development of a circular economy in Vietnam

Improving corporate income tax laws for circular economy development should aim towards: (i) Comprehensive,

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appropriate, consistent, effective, and ensuring high legal validity; (ii) ensuring that corporate income tax laws directly regulate circular economy activities so that resources are used, recycled, and reused most efficiently. (iii) meeting the requirements of international integration (in accordance with the international treaties to which the Socialist Republic of Vietnam is a member and international practices). Based on that, the following recommendations need to be considered for implementation.

Firstly, the study recommends systematizing the legal provisions on corporate income tax into the Corporate Income Tax Law and including direct regulations on the circular economy.
The current regulations on corporate income tax affecting the circular economy are still contained in various legal documents. Therefore, it is necessary to systematize all legal provisions on corporate income tax into the Corporate Income Tax Law, which is specified by sub-law documents on corporate income tax. Accordingly, the Corporate Income Tax Law and its implementing documents need to have clear regulations on corporate income tax incentives for certain specific activities to develop a circular economy, such as incentives for recycling and reuse activities, to address the current situation.

Improving corporate income tax law for the development of a circular economy must be based on the completion of circular economy law, from which tax law can have appropriate regulations that encourage entities to transition from a non-circular economy to a circular economy and develop a circular economy.

Secondly, the authorities need to review the legal framework on corporate income tax for the development of a circular economy to issue new regulations or amend and supplement existing regulations that are lacking or conflicting, in the direction of:

** Improve the regulations on the basis and methods of corporate income tax calculation affecting the development of a circular economy.*

Regarding the tax base, it is necessary to supplement regulations on taxable income for businesses engaged in the circular economy by directly and clearly specifying the deductible expenses. For example, when businesses purchase and use equipment to produce energy-saving, water-saving, solid waste, gas, and wastewater treatment to serve as inputs for subsequent product production or to use waste, gas, and wastewater from other businesses as the main raw materials for their product production, these expenses are deductible when calculating taxable income. Vietnam should consider stipulating that enterprises engaged in the circular economy can allocate up to 20% of their taxable income to establish a Fund for the Development of Science, Technology, and Innovation, as outlined in Resolution No.68-NQ/TW on the development of the private economy, instead of the current maximum of 10%. It is advisable to supplement regulations on corporate income tax deductions for expenses related to the investment in machinery and technology upgrades for circular economy activities, in addition to the existing regulations on deductible expenses when calculating taxable income.

** It is suggested to perfect regulations on corporate income tax incentives (preferential tax rates, tax exemptions, tax reductions) directly impacting the development of a circular economy.*

First of all, it is essential to review and refine the regulations on preferential tax rates, the duration of incentives, and the levels of exemption and reduction of corporate income tax for the development of a circular economy. Regulations on corporate income tax incentives for clean energy production, waste, wastewater, and emissions reuse should be amended and supplemented to encourage businesses to invest in high-technology and environmentally friendly technologies. On the other hand, the scope of corporate income tax incentives needs to be narrowed, with no tax incentives for industries and sectors that have natural advantages or do not have a significant spillover effect on socio-economic development, while still ensuring the goals of a circular economy (Pham Thi Thanh Tam, 2021). It is necessary to continue improving the legal framework by applying tax policies that target resource use and pollution-causing activities, encouraging reuse/recycling activities (Nguyen Hong Thang, 2021).

The study recommends amending the tax exemption regulation in Clause 8, Article 4 of the Corporate Income Tax Law to exempt corporate income tax on all income of businesses engaged in the circular economy from the transfer of emission reduction certificates, not just CERs, for example, income from the transfer of voluntary emission reduction certificates (VER). It should include a tax exemption for income from the transfer of carbon credits for the first time after issuance.

In the current conditions, perfecting the corporate income tax laws for the development of a circular economy that meets the requirements of a market economy and international economic integration requires considering international regulations. For example, regulations on corporate income tax incentives must consider the global minimum corporate income tax rate of 15% applicable to multinational companies with a consolidated global revenue of 750 million EUR (800 million USD) for at least 2 out of the last four consecutive years. Vietnam has implemented it from January 1, 2024, according to Resolution No.107/2023/QH15 on the application of supplementary corporate income tax following the global anti-base erosion rules. Accordingly, companies subject to the global minimum corporate income tax rate and currently benefiting from a tax rate below 15% must pay an additional corporate income tax in Vietnam to ensure a minimum rate of 15%. Therefore, it requires the Corporate Income Tax Law to be amended appropriately while still encouraging investment. The forms of incentives should not be based on tax rates for circular economic activities. For example, incentives through deductible expenses when calculating taxable income are more favorable.

6. Conclusion

Appropriate corporate income tax laws are the effective tools to promote the development of a circular economy. In

Vietnam, for corporate income tax laws to truly be a legal tool that positively impacts businesses transitioning from a linear economy to a circular economy and developing a circular economy, they must be continuously improved. The circular economy is formed and developed based on the principle that "everything is an input for something else. " From the study of the current state of the corporate income tax legal system in Vietnam for the development of the circular economy, it has been shown that the tax legal system still has two main types of shortcomings that need to be improved. The proposed recommendations offer a critical roadmap for restructuring corporate income tax laws to align with Vietnam's strategic commitment to sustainable development.

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