

DOING BUSINESS IN VIETNAM





Foreword:

This booklet has been prepared by A&C Auditing and Consulting Co., Ltd. (A&C) - an independent member firm of BAKER TILLY INTERNATIONAL. It is designed to give some general information to those contemplating doing business in Vietnam.

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“Doing business in Vietnam” is compiled to provide information for readers. Despite effort to ensure the accuracy, information in this booklet still may be incomplete. Accordingly, the receivers should not follow without professional consultancy. The issues and data in the booklet are true at the compilation time.

Updates and supports for doing business can be found in this booklet. Contact information is presented at the back.

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1 General information

Geography

Location	Situated in the southeast of Indochina, Vietnam shares borders with China in the North, with Laos and Cambodia in the West and is bounded by the South China Sea in the East and the South.
Area	331,698 km ²
Border	Vietnam shares land borders with China (1,450 km), Laos (2,067 km) and Cambodia (1,137 km)
Coastline	The coastline of 3,444 km borders on Gulf of Tonkin, South China Sea and Gulf of Thailand.
Climate	Tropical monsoon climate
Terrain	The terrain of Vietnam is very various. The country is divided into three regions with the highlands and the Red River Delta in the north; and the coastal lowlands and the highlands along with the Annamite Range in the center, and the Mekong River Delta in the south.
Time zone	GMT+7
People	
Population	95.41 million people (in 2017)
Religion	Buddhism, Catholicism, Caodaism, etc.
Language	Vietnamese is the official language.
Government	
Country	Socialist Republic of Vietnam
Government form	The Party leads, the State manages, and the People own through the National Assembly - the highest organ of state power.
Capital	Hanoi
Subdivisions	Vietnam is divided into 3 administrative tiers: province and equivalents, district and equivalents, commune and equivalents. Vietnam consists of 58 provinces and 5 municipalities (Hanoi, Hai Phong, Da Nang, Ho Chi Minh City, Can Tho).
Political institution	Socialism



Economy

Per capita income	US \$2,215 (in 2016)
Growth rate	6,21 % (Năm 2016)
Labor	54.4 million people from the age of 15 (in 2016)
Unemployment rate	2.30% (in 2016)
Currency	VND



2 Types of business organizations and accounting system

2.1 Principal forms of businesses

In Vietnam nowadays, businesses and organizations are established based on the following investment forms: one-member limited liability companies, limited liability companies of two members or more, joint stock companies, partnerships and private enterprises.

Foreign investors can carry out their businesses under the following investment forms:

2.1.1 Business co-operation contracts

Business co-operation contracts (BCC) are documents signed between two parties or more to conduct the investments and businesses in Vietnam, in which obligations are shared and profit is distributed to each party without the formation of a new legal company.

Business co-operation contracts in the field of searching, investigating and exploring oil and gas and other natural resources in the form of profit sharing contracts are carried out in accordance with the related regulations..

2.1.2 Representative office

The foreign investors doing business in Vietnam can establish representative office in Vietnam.

The operation of a representative office shall be confined to the conduct of liaison activities, market research, and promotion of its head office's businesses. The representative office is unincorporated and must not perform profitable activities such as negotiation, conclusion of a contract, trading in goods and services.

The representative office is often established when foreign entities tend to expand their business in Vietnam.

2.1.3 Branch

Branch is the enterprise's independent entity which carries out the entire or partial function of enterprise, including authorized representation. The branch's business lines must be consistent with those of the enterprises.

The operation of foreigner investor's branch shall be confined to certain fields. However, other than representative office, the branch carries out function of doing business in Vietnam.



2.1.4 Joint ventures

Joint ventures are businesses established on the basis of the joint venture contracts signed between two parties or more to carry out the investments and businesses in Vietnam.

In particular cases, joint ventures can be established by the agreements signed between Vietnamese Government and other Governments.

New joint ventures are enterprises established by the co-operation between a joint venture already set up in Vietnam with the followings:

- Foreign investors;
- Vietnamese enterprises;
- Healthcare centers, educational and training organizations, scientific research centers which can meet the requirements of the Government;
- Vietnamese residing overseas;
- Joint ventures, 100% foreign-owned companies.

Joint ventures are limited liability companies of two members or more. Each joint venture partner is held liable for the capital share in the joint venture's prescribed capital. Joint ventures are established, come into operations since the date of the investment certificate and bear legal status according to the regulations of Vietnamese laws.

2.1.5 100% foreign-owned companies

These are the enterprises owned and established in Vietnam by foreign investors who manage the businesses themselves and are self-responsible for the business results.

100% foreign-owned companies which have already been set up in Vietnam can have co-operative relationships among one another or with foreign investors to establish new 100% foreign-owned companies in Vietnam.

100% foreign-owned companies are one-member limited liability ones or limited liability ones of two members or more, joint stock companies, established and coming into operations from the date of the Investment Certificate with the legal status regulated by the Vietnamese laws.

2.2 Accounting and Auditing Requirements

2.2.1 Accounting requirements

All the businesses and organizations are obligated to apply the Vietnamese Accounting System and Standards as well as other regulations issued by the Ministry of Finance. The regulations on accounting are based on the Accounting Law in November 2015 and documents giving guidance on the implementation of the Government and the Ministry of Finance. Financial statements must be prepared at the end of a fiscal year. The fiscal



year of a 12-month year can be a calendar year or self-selected by the company, but the beginning month of a fiscal year must be the beginning month of a quarter.

2.2.2 Auditing requirements

An audit of annual financial statements of the following companies and organizations is compulsory:

- a) Foreign-invested capital enterprises;
- b) Credit institutions that are incorporated in accordance with the Law on credit institutions, including branches of foreign banks in Vietnam;
- c) Financial organizations, insurance companies, reinsurance companies, insurance brokers and branches of foreign non-life insurers;
- d) Public corporations, companies who list their stocks and do businesses in securities market;
- e) State-owned companies, except for State-owned companies operating in fields of State secret as prescribed by Law;
- f) Enterprises and organizations in which the State-owned companies and corporation hold from 20% voting right or higher;
- g) Enterprises of which 20% voting right or higher is held by the listed entities, security issuing and trading organizations;
- h) Audit firms, branches of foreign audit firms in Vietnam;
- i) Reports on finalized construction project accounts in line with the prevailing regulations.

3 Investment and finance

There have been many economic incentives for foreign investors to attract investments in highly value-added products, supporting industry and low-waste technology.

Vietnam is currently ranked as one of the foreign investment attractors thanks to skillful, hard-working and creative labor resource who is capable of meeting requirements of modern businesses. This is considered as one of positive factors that enables Vietnam to become more attractive to foreign investors compared to other Southeast Asian countries.

A series of articles related to foreign investment activities have also been supplementing and perfected. The 2014 Investment Law, taking effective from 01 July 2015 and replacing the 2005 Investment Law, has amendments in investment prohibition, conditional investment and investment administration reform. In which, legal foundation should be transparent to ensure free investment in non-prohibited business lines through regulations on banned business lines and conditional business lines. The Investment Law's administrative procedures have also been drastically reformed to be simpler and more transparent to ensure effective State management such as simplifying dossiers, orders and procedures, and shortening time required to grant Investment Registration Certificates to foreign investors. Additionally, the Law also separates project investment from business registration. Accordingly, as procedures for Investment Registration Certificates are completed, foreign investors will be allowed to have equal opportunities to establish enterprises like domestic investors.

As for investment incentives, the Vietnamese Government continues encouraging investments in fields of education, healthcare, culture, sport, high technology, environmental protection, scientific research, infrastructure development, agricultural and aquatic product processing, software and renewable energy production. Investment projects are also encouraged in such areas as economic zones, hi-tech zones, some industrial zones and areas with difficult socio-economic conditions. In addition, investment incentives are also given to manufacturing projects with high investment of over 6 trillion Vietnamese dong and fund disbursement process lasts maximum for 3 years from the approved first investment.

Moreover, according to Vietnam's WTO commitments on services, Vietnam has made open-door commitment to 11 service sectors (including 110 sub-sectors) including service business, communication, construction and associated services, distribution, education, environment, finance, health, tourism, culture, entertainment and transportation. Vietnam commits to allow foreign investors to provide services in Vietnam in the form of business cooperation contracts and joint ventures with Vietnamese partners; and 100% foreign-owned enterprises. Conditions for getting into market and implementation schedule in each sector or sub-sector are based on specific commitments.

Along with the change in investment activity, important tax laws have been revised and amended by the National Assembly in line with international practice, and administrative procedures have been drastically reformed to reduce the time spent by enterprises on tax



payment. On that basis, enterprises can be public, transparent and accountable for their legal obligations.

Apart from the foresaid activities, Vietnam is speeding up the reform of administrative procedures, application of decentralization and improvement of Investment Certificate issuance procedures. Currently, foreign investors can directly apply for Investment Certificate at locality where they plan to locate its head office instead of submitting application to the Ministry of Planning and Investment (MPI) in Hanoi.

All factors such as gradual improvement of the mechanism and policies on investment in order to mobilize resources for investment development and efficiency improvement, expansion of investment forms of Build-Operate-Transfer (BOT), Build-Transfer (BT), Build-Transfer-Operate (BTO), prompt promulgation of Public-Private Partnership (PPP) regulations to develop transport system, especially significant transportation works which helps to remarkably improve infrastructure in key cities, satellite towns and important transport centers, only aim at creating favorable conditions for enterprises to make investment, develop their business and expand the market.

3.1 Foreign exchange controls and other limitations

All the receipts and payments in foreign currencies of businesses are made through accounts which are opened at accepted banks and used for the proper purposes in accordance with legal regulations on foreign exchange controls.

Penalties for administrative violations in monetary and banking sector will be applied for incompliance of lending, financial leases or domestic debt repayment in foreign currencies; remittance or bringing foreign currency into and out of Vietnam; payment for goods and services in foreign currencies to foreigners; purchase, sale and payment in foreign currencies; price listing, advertising of goods, services, land use right in foreign currencies and gold.

Foreign-invested enterprises and foreign partnerships are entitled to purchase foreign currencies at licensed commercial banks to meet the demand for extra-provincial transactions and other permitted transactions under the legal regulations on foreign exchange control.

After the implementation of tax obligations, foreign investors are allowed to remit abroad the following:

- Profit gained from business operations, dividends shared;
- Gains from service provisions and technological transfer;
- Principal amounts and interests of overseas loans;
- Investment capital;



- Other amounts and assets of which their ownership is legal.

When businesses terminate their operations and are then dissolved, foreign investors are allowed to transfer abroad their legally owned assets. In this case, if the remitted amount is greater than initial investments and re-investments, the difference can only be sent abroad after the approval from the investment license issuing bodies.

Expatriates working in Vietnam are able to remit their salaries and other legitimate income in foreign currencies after the payments for income tax and other expenses.

The exchange rates used to convert foreign currencies into VND and vice versa during the investment and operations of foreign-invested capital enterprises and partners are decided in accordance with the regulations of the State Bank of Vietnam as of the transaction dates.

Economic organizations with foreign-invested capital shall report their conducts of capital investment and profit remittance to the State Bank of Vietnam.

3.2 Sources of finance

Local financial sources include the State Bank of Vietnam, State-owned commercial banks, joint stock commercial banks, joint-venture banks between Vietnam and foreign countries, branches of foreign banks, 100% foreign-owned banks, credit institutions, investment funds and financial leasing companies and insurance organizations. Besides, the development of Vietnamese stock market in recent years has been being a capital mobilization channel of businesses. However, at present, the main financial source is bank loans secured by mortgaging assets.



4 Regulations on employment and social security

4.1 Accommodation and Labor Permit

In demand of foreign laborers, foreign-invested capital enterprises and partnerships shall proceed formalities at the Department of Labor, Invalids and Social Affairs or at the Industrial Parks Authorities to be considered for the grant of Labor Permits as stipulated by labor regulations. Foreigners working from 3 months or more for businesses, organizations and individuals in Vietnam must possess Labor Permits granted by the State agencies on labor management of the provinces and municipal cities; the term of labor permits is the same as that of labor contracts, but not over 02 years and can be extended as requested by the employers. The duration of temporary residence cards for foreigners working in Vietnam will be based on that of the Labor Permit, but not less than one year and longer than two years.

As for the Director of a foreign-invested capital enterprise, who is foreigner:

- If the Director is the direct investor or the member of the Board of Management, procedures of registration for Labor Permits are not necessary.
- If the Director is not the direct investor or the member of the Board of Management, documents applying for Labor Permits must be proceeded as stipulated.

Other cases in which the foreign workers are exempt from Labor Permits, including:

- Foreigners acting as the Chief of representative office, Chief of project office or those authorized by foreign non-governmental organizations;
- Foreign workers who stay in Vietnam for under 3 months to offer services .;
- Those who stay in Vietnam for under 3 months to deal with complicated technical or technological problems that adversely impact or are at risk of exerting adverse impacts on production and business activities and these problems cannot be handled by Vietnamese and foreign experts who are currently in Vietnam;
- Foreign workers who are internally transferred within an enterprise operating in the 11 service sectors in the list of Viet Nam's commitments on services to the World Trade Organization, including: business, communication, construction, distribution, education , environment, finance, healthcare, tourism, cultural entertainment and transport.
- Foreign workers entering Viet Nam to provide advisory services and technical expertise or perform other tasks serving research, construction, appraisal, monitoring and evaluation, management and implementation of programs/projects funded with official development assistance (ODA) as specified and agreed in international agreements on ODA between competent authorities of Viet Nam and



other countries;;

- The foreigners being issued with the licenses for the practice of communications or journalism in Vietnam by the Ministry of Foreign Affairs;
- Other cases decided by the Prime Minister.

4.2 Employment

4.2.1 Employment Regulations

The legal background related to the employment is the Labor Code of Vietnam.

4.2.2 Salaries and wages

Foreign-invested capital enterprises and partnerships can directly employ Vietnamese and foreign laborers in accordance with the labor regulations.

Salaries of laborers are mutually agreed by related parties in labor contracts and paid by productivity, quality and effectiveness of the work. The salaries of laborers must not be lower than the minimum amount stipulated by the Government.

4.2.3 Working hours

Working hours shall not exceed 8 hours per day or 48 hours per week.

Employers and employees can agree on extra-working hours, but not over 4 hours per day, or 200 hours per year.

Overtime work is paid according to the salary unit price or the salary of the work done:

- Weekdays: At least 150%;
- Weekends: At least 200%;
- Holidays and salaried days-off: At least 300%.

Nightshift work is paid at least 30% of the salary according to the unit price or the salary of day work.

4.2.4 Labor contracts

Labor contracts are the agreements between the employees and the employers on the work paid by remunerations, on the working conditions, on the rights and obligations of each party in labor relationship.

Labor contracts are signed under one of the following types:

- Indefinite labor contracts
- Definite labor contracts (12 months– 36 months)
- Seasonal labor contracts or those based on below 12-month work.



Labor contracts shall be signed in writings and made into 2 copies, each party keeps one.

Labor contracts must contain such principal contents as: work to be done, working hours, relaxing time, salaries, location, contract term, labor safety and sanitation conditions and social insurance for laborers.

4.3 Trade Unions

Trade Unions must be established 6 months after the commencement of the operations of the enterprises with a view to representing and protecting the legal rights and benefits of laborers and labor community.

4.4 Social, Health and Unemployment Insurance Contributions

Social insurance (“SI”) and Unemployment insurance (“UI”) contributions are applicable to Vietnamese individuals only. Since 2018, the Government will develop policies on social insurance collection from foreigners, but the collection rate and method have been still planned and not instructed specifically.

Health insurance (“HI”) contributions are required for Vietnamese and foreign individuals that are employed under Vietnam labour contracts.

SI/HI/UI contribution rates are as follows:

	SI	HI	UI	Total
Employee	8%	1.5%	1%	10.5%
Employer	17.5%(*)	3%	1%	21.5%

(*) This rate is applied from 01 May 2017 instead of the rate of 18% as before.

From 01 January 2016 to 31 December 2017, the salary subject to SI / HI / UI contributions is the salary and certain allowances stated in the labour contract, but this is capped at 20 times the minimum salary for SI / HI contributions and 20 times the minimum regional salary for UI contributions (The minimum salary is currently VND1,300,000/month and the minimum regional salary varies from VND2,400,000/month to VND3,500,000/month - these minimum salaries are subject to change each year).

Statutory employer contributions do not constitute a taxable benefit to the employee. The employee contributions are deductible for PIT purposes.

5 Taxation

General Overview

Most business activities and investments in Vietnam will be affected by the following taxes:

- License duty;
- Corporate income tax;
- Foreign contractor tax;
- Capital assignment profits tax;
- Value added tax;
- Import duties;
- Personal income tax of Vietnamese and expatriate employees;

There are various other taxes that may affect certain specific activities, including:

- Special sales tax;
- Natural resources tax;
- Property taxes;
- Export duties;
- Environment protection tax.

All these taxes are imposed at the national level. There are no local, state or provincial taxes.

5.1 License duty:

License duty is a type of directly-collected tax and is usually imposed on the basis of business license (license) of corporate business and household business. License duty is annually collected based on level, registered capital or revenue of the preceding business year or the value added in the preceding business year.

According to the Circular No. 302/2016/TT-BTC of the Ministry of Finance, taking effective from 01 January 2017, economic organizations pay license duty at their charter capital or registered investment as in the Business Registration Certificate or the Investment License as follows:



Unit: VND

Level	Charter capital or investment	License duty
Level 1	Over VND 10 billion	3.000.000
Level 2	VND 10 billion or less	2.000.000
Level 3	Branch, representative office, business locations, non-business entity, other economic organizations	1.000.000

In case of change in charter capital or investment capital, the basis for determining the license duty shall be the charter capital or investment capital of the preceding year of license duty calculation.

In case the charter capital or investment capital is specified in the Business Registration Certificate or Investment Registration Certificate in foreign currencies, it shall be converted into Vietnamese dong as a basis for determining the license duty at the buying rate of commercial banks and credit institutions where taxpayers open their accounts at the time of payment.

5.2 Corporate income tax (CIT)

5.2.1 Tax rates

Enterprises (generally companies) are subject to the tax rates imposed under the CIT Law. The standard CIT rate from 2016 is 20% (it was 22% from 2014 to 2015, and 25% prior to 2014). Since 01 January 2016, enterprises which have projects previously enjoy the preferential tax rate of 20% shall be applied the tax rate of 17% for the remaining period. Companies operating in the oil and gas industry are subject to CIT rates ranging from 32% to 50% depending on the location and specific project conditions. Companies engaging in prospecting, exploration and exploitation of mineral resources (e.g. silver, gold, gemstones) are subject to CIT rates of 40% or 50%, depending on the project's location.

5.2.2 Tax incentives

Tax incentives are granted to new investment projects based on regulated encouraged sectors, encouraged locations and the size of the project. Business expansion projects (including expansion projects licensed or implemented during the period from 2009 to 2013 which were not entitled to any CIT incentives previously) which meet certain conditions are also entitled to CIT incentives. New investment projects and business expansion projects do not include projects established as a result of certain acquisitions



or reorganisations.

The sectors which are encouraged by the Vietnamese Government include education, health care, sport, culture, high technology, environmental protection, scientific research and technology development, infrastructural development, processing of agricultural and aquatic products, software production and renewable energy.

Locations which are encouraged include qualifying economic and high-tech zones, certain industrial zones and difficult socio-economic areas.

Large manufacturing projects (excluding those related to the manufacture of products subject to special sales tax or those exploiting mineral resources) with total capital of VND6,000 billion or more, disbursed within 3 years of being licensed, if they meet either of the following criteria:

- Minimum revenue of VND10,000 billion/annum by the 4th year of operation at the latest; or
- Head count of more than 3,000 by the 4th year of operation at the latest.

Since 2015, large investment projects also includes those with total capital of VND12,000 billion or more, disbursed within 5 years of being licensed (excluding those related to the manufacture of products subject to special sales tax or those exploiting mineral resources) and using technologies appraised in accordance with relevant laws.

New investment or expansion projects engaged in manufacturing industrial products prioritized for development are entitled to CIT incentives if they meet one of the following conditions:

- The products support the high technology sector; or
- The products support the garment, textile, footwear, electronic spare parts, automobile assembly, or mechanical sectors and were not produced domestically as at 01 January 2015, or if produced domestically, they meet the quality standards of the EU or equivalent.

The two common preferential rates of 10% and 20% are available for 15 years and 10 years respectively, starting from the commencement of generating revenue from the incentivized activities. From 01 January 2015, the preferential rate of 15% is applicable in some cases. The duration of application of the preferential tax rate can be extended in certain cases. When the preferential rate expires, the CIT rate reverts to the standard rate. Certain socialized sectors (e.g. education, health) enjoy the 10% rate for the entire life of the project.

Taxpayers may be eligible for tax holidays and reductions. The holidays take the form of an exemption from CIT for a certain period beginning immediately after the enterprise first makes profits from the incentivized activities, followed by a period where tax is charged at 50% of the applicable rate. However, where the enterprise has not derived taxable profits within 3 years of the commencement of generating revenue from the incentivized activities, the tax holiday/tax reduction will start from the fourth



year of operation. Criteria for eligibility for these holidays and reductions are set out in the CIT regulations. Additional tax reductions may be available for companies engaging in manufacturing, construction and transportation activities which employ many female staff or employ ethnic minorities.

Tax incentives which are available for investment in encouraged sectors do not apply to other income (except for income which directly relates to the incentivized activities such as disposal of scrap), which is broadly defined.

5.2.3 The following income shall be tax exempted:

- Income earned from products of cultivation, husbandry and aquaculture by organizations established pursuant to the Law on Co-operatives;
- Income earned from performance of technical services directly serving agricultural production;
- Income earned from performance of contracts for science research and technological development, from products during their period of test production, and from products made from new technology applied for the first time in Vietnam;
- Income earned from activities of production and/or business in goods and services by enterprises specially reserved for employees being disabled people, reformed addicts and people infected with HIV, etc.;
- Income earned from occupational training activities reserved for ethnic minority, disabled people, children living in particularly difficult conditions and reformed offenders;
- Income distributed from activities being capital contribution, joint venture, and/or association with a domestic enterprise after payment of corporate income tax in accordance with this Law;
- Aid funds receivable for use in educational, scientific research, cultural, artistic, charitable, humanitarian and other social activities in Vietnam.

5.2.4 Determination of taxable income

Taxable income in the tax period includes taxable income earned from production, trading, service and other taxable income. Taxable income does not include income from services performed outside the territory of Vietnam such as overseas repair of vehicles, machinery and equipment; advertising, marketing, investment and trade promotion abroad; overseas goods and service brokerage, overseas training, international telecommunication to foreign parties.



The tax assessment period for corporate income tax shall be determined in accordance with the calendar year. If the company applies the fiscal year different from the calendar year, the tax year shall be determined in accordance with the applied fiscal year.

$$\text{Taxable Income} = \left[\text{Turnover} - \text{Deductible expenses} \right] + \text{Other income}$$

The point of time to recognize sales for the determination of taxable income is the time of goods and services being consumed, and it makes no difference whether the amount is collected or not yet. Details are as follows:

- As for merchandises and goods: Sales are recognized upon the transfer of the ownership or upon the issuance of invoices.
- As for services: Sales are recognized upon the completion of the services.

The deductible expenses are quite complex in nature and are detailed in the Circular guiding CIT Law. The enterprises may deduct all expenses that fully satisfy the following conditions:

- Actual expenses arising in relation to production and business activities of enterprises.
- Expenses are supported by adequate lawful invoices and documents as required by law;
- For expenses of purchase of goods or services with invoices valued at VND 20 million or more (VAT-inclusive prices) each, there must be non-cash payment documents;

Examples of non-deductible expenses include:

- Depreciation of fixed assets which is not in accordance with the prevailing regulations;
- Employee remuneration expenses which are not actually paid, or are not stated in a labour contract, collective labour agreement or the company policies;
- Staff welfare exceeding a cap of one month's average salary.
- Reserves for research and development not made in accordance with the prevailing regulations;
- Provisions for severance allowance and payments of severance allowance in excess of the prescribed amount per the Labour Code;
- Overhead expenses allocated to a permanent establishment ("PE") in Vietnam by the foreign company's head office exceeding the amount
- Interest on loans corresponding to the portion of charter capital not yet contributed;
- Interest on loans from non-economic and non-credit organizations exceeding 1.5 times the interest rate set by the State Bank of Vietnam;



- Provisions for stock devaluation, bad debts, financial investment losses, product warranties or construction work which are not made in accordance with the prevailing regulations;
- Unrealized foreign exchange losses due to the year-end revaluation of foreign currency items other than account payables;
- Donations except certain donations for education, health care, natural disaster or building charitable homes for the poor;
- Administrative penalties, fines, late payment interest;
- Contributions to voluntary pension funds exceeding VND 1 million per month per person;
- Certain expenses directly related to the issuance, purchase or sale of shares;
- Creditable input value added tax, corporate income tax and personal income tax.

Taxpayers are required to prepare an annual CIT return which includes a section for making adjustments to accounting profit to arrive at taxable profit.

5.2.5 Losses

Taxpayers may carry forward tax losses fully and consecutively for a maximum of five years.

Losses arising from incentivized activities can be offset against profits from non-incentivised activities, and vice versa. Losses from the transfer of real estate and the transfer of investment projects can be offset against profits from other business activities.

Carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

5.2.6 Administration

Provisional quarterly CIT returns are no longer required. Enterprises are instead required to make quarterly provisional CIT payments based on estimates. If the provisional quarterly CIT payments account for less than 80% of the final CIT liability, any shortfall in excess of 20% is subject to late payment interest (currently as high as 0.03% per day or 11% per annum), applying from the deadline for payment of the Quarter 4 CIT liability.

Final CIT returns are filed annually. The annual CIT return must be filed and submitted not later than 90 days from the fiscal year end. The outstanding tax payable must be paid at the same time.

Where a taxpayer has a dependent accounting unit (e.g. branch) in a different province, a single CIT return is required. However, manufacturing companies are required to allocate tax payments to the various provincial tax authorities in the locations where they have dependent



manufacturing establishments. The basis for allocation is the proportion of expenditure incurred by each manufacturing establishment over the total expenditure of the company.

The standard tax year is the calendar year. Companies are required to notify the tax authorities in cases where they use a tax year (i.e. fiscal year) other than the calendar year.

5.2.7 Profit Remittance

Foreign investors are permitted to remit their profits annually at the end of the financial year or upon termination of the investment in Vietnam. Foreign investors are not permitted to remit profits if the investee company has accumulated losses.

The foreign investor or the investee company are required to notify the tax authorities of the plan to remit profits at least 7 working days prior to the scheduled remittance.

5.3 Value-added tax (“VAT”)

5.3.1 Scope of application

VAT applies to goods and services used for production, trading and consumption in Vietnam (including goods and services purchased from non-residents). A domestic business must charge VAT on the value of goods or services supplied.

In addition, VAT applies on the dutiable value of imported goods. The importer must pay VAT to the customs authorities at the same time they pay import duties. For imported services, VAT is levied via the FCT mechanism.

VAT payable is calculated as the output VAT charged to customers less the input VAT suffered on purchases of goods and services. For input VAT to be creditable, the taxpayer must obtain a proper VAT invoice from the supplier. For VAT paid on imports, the supporting document is the tax payment voucher, and for VAT collected via the FCT mechanism, the supporting document is the FCT payment voucher.

Currently, according to Vietnam’s VAT regulations, goods and services provided are classified into either one of three following cases:

Goods or Services where VAT declaration and payment are not required:

- For these supplies, no output VAT has to be charged but input VAT paid on related purchases may be credited. These supplies include:
 - ✓ Compensation, bonuses and subsidies, except those provided in exchange for certain services;
 - ✓ Transfers of emission rights and various financial revenues;



- ✓ Transfer of investment projects;
 - ✓ Capital contributions in kind;
 - ✓ Certain asset transfers between a parent company and its subsidiaries or between subsidiaries of the same parent company;
 - ✓ Collections on behalf of other parties which are not involved in the provision of goods/services;
 - ✓ Lending or return of machinery, equipment, goods;
 - ✓ Other cases as defined at the Circular No. 219/2013/TT-BTC.
- Exempt Goods and Services:
There are stipulated categories of VAT exemption, including:
- ✓ Certain agricultural products;
 - ✓ Goods/services provided by individuals having annual revenue of VND 100 million or below;
 - ✓ Transfer of land use rights (subject to limitations);
 - ✓ Financial derivatives and credit services; sale of VAT able mortgaged assets by the borrower under the lender's authorization in order to settle a guaranteed loan and provision of credit information;
 - ✓ Various securities activities including fund management;
 - ✓ Capital assignment;
 - ✓ Foreign currency trading;
 - ✓ Medical services;
 - ✓ Teaching and training;
 - ✓ Printing and publishing of newspapers, magazines and certain types of books;
 - ✓ Passenger transport by public buses;
 - ✓ Transfer of technology, software and software services except exported software which is entitled to 0% rate;
 - ✓ Fertilizer, feed for livestock, poultry, seafood and other animals, machinery and equipment specifically used for agriculture;
 - ✓ Some other goods and services..
- Remaining goods and services are subject to VAT at the three following rates:
- ✓ The tax rate of 0% applies to exported goods/services including goods/services sold to overseas/non-tariff areas and consumed outside



Vietnam/in the non-tariff areas, goods processed for export or in-country export (subject to conditions), goods sold to duty free shops, certain exported services, construction and installation carried out for export processing enterprises, aviation, marine and international transportation services.

- ✓ The tax rate of 5% applies generally to areas of the economy concerned with the provision of essential goods and services. These include: clean water; teaching aids; books; unprocessed foodstuffs; medicine and medical equipment; husbandry feed; various agricultural products and services; technical/scientific services; rubber latex; sugar and its by-products; certain cultural, artistic, sport services/products and social housing.
- ✓ The tax rate of 10% considered as a "standard" rate applies to activities not specified as not-subject to VAT, exempt or subject to 0% or 5%.

5.3.2 VAT Calculation Methods

There are two VAT calculation methods, the deduction method and the direct calculation method.

a. Method one - Deduction method (mainly applied by enterprises)

This method applies to business establishments maintaining full books of accounts, invoices and documents in accordance with the relevant regulations, including:

- Business establishments with annual revenue subject to VAT of VND1 billion or more;
- Certain cases voluntarily registering for VAT declaration under the deduction method.

Determination of VAT payable:

$$\text{VAT payable} = \text{Output VAT} - \text{Input VAT}$$

Calculation of output VAT

The output VAT to be charged is calculated by multiplying the taxable price (net of tax) by the applicable VAT rate. For goods sold on an instalment basis (except for real estate), VAT is calculated on the total price without interest, rather than the instalments actually received.

Input VAT

For domestic purchases, input VAT is based on VAT invoices. For imports, as there is no VAT invoice, input VAT credits are based on the tax payment voucher.

VAT invoices can be declared and claimed any time before the company receives notice of a tax audit by the tax authorities. Input VAT credits on payments of VND20 million



or more can only be claimed where evidence of payment by bank is available. Input VAT withheld from payments to overseas suppliers (i.e. under the foreign contractor tax system) can also be claimed where the taxpayer makes VATable on supplies.

If a business sells exempt goods or services it cannot recover any input VAT paid on its purchases. This contrasts with supplies entitled to 0% VAT or with no VAT required, where the input VAT can be recovered. Where a business generates both VATable and VAT exempt sales, it can only claim an input VAT credit for the portion of inputs used in the VATable activity. For VAT on both VATable and VAT exempt activities, the deduction is calculated according to the VATable sales proportion to the total sales

b. Method two - Direct method

This method is rarely used and only applies to business establishments with annual revenue subject to VAT of less than VND1 billion;

The VAT to be paid by the method of direct calculation on added value shall result from the percentage (%) multiplied by the turnover. In which:

The percentage (%) for calculating VAT is as follows:

Goods and services	The percentage (%) for calculating VAT
Goods supply and distribution	1%
Services, construction without materials	5%
Production, transport, and services associated with goods, construction that includes materials	3%
Others	2%

Turnover for VAT calculation is the total sales of goods or services actually inscribed on sale invoices of goods and services subject to VAT, including surcharges and additional amounts that flow to the enterprises.

5.3.3 Administration

All organizations and individuals producing or trading VATable goods and services in Vietnam must register for VAT. In certain cases, branches of an enterprise must register separately and declare VAT on their own activities.

Taxpayers must file VAT returns on a monthly basis by the 20th day of the subsequent month, or on a quarterly basis by the 30th day of the subsequent quarter (for companies with prior year annual revenue of VND 50 billion or less).

5.3.4 Refunds

From 01 July 2016, VAT refunds are only granted in the following cases:

- Exporters having excess input VAT credits over VND300 million. The refunds are provided on a monthly or quarterly basis, in line with the VAT declaration period of taxpayers.
- New projects of companies adopting VAT deduction method which are in the pre-operation investment phase and have accumulated VAT credits over VND300 million. Exceptions include conditional investment projects which do not satisfy the regulated investment conditions, or investment projects of companies whose charter capital has not yet been contributed as regulated;

5.3.5 Hóa đơn

Entities in Vietnam can use pre-printed invoices, self-printed invoices or electronic invoices. The tax invoice template must contain stipulated items and be registered with or notified to the local tax authorities.

5.4 Foreign Contractor Tax (“FCT”)

Foreign contractor tax is applied to foreign organisations and individuals, including interest, royalties, service fees, leases, insurance, transportation, transfers of securities, and goods supplied within Vietnam or associated with services rendered in Vietnam and some distribution agreements in Vietnam by foreign companies. FCT normally comprises a combination of VAT and CIT, or PIT for income of foreign individuals.

5.4.1 Payment to foreign contractors

Withholding tax is applied to payments made by Vietnamese enterprises (including foreign-invested enterprises) to foreign contractors who have not established a legal entity in Vietnam.

Cases where FCT is exempt include pure supply of goods (i.e. where the responsibility, cost and risk relating to the goods passes at or before the border gate of Vietnam and there are no associated services performed in Vietnam), services performed and consumed outside Vietnam and various other services performed wholly outside Vietnam (e.g. certain repairs, training, advertising, promotion, etc.).

Certain distribution arrangements where foreign entities are directly or indirectly involved in the distribution of goods or provision of services in Vietnam are subject to FCT - e.g., where the foreign entity retains ownership of the goods, bears distribution, advertising or marketing costs, is responsible for the quality of goods or services, making pricing decisions, or authorises/hires Vietnamese entities to carry out part of the distribution of goods/provision of services in Vietnam.



5.4.2 FCT Payment Methods

Foreign contractors can choose between three methods for tax payment - the deduction method, the direct method and the hybrid method.

a. Foreign Contractor Tax (“FCT”)

This entails the foreign contractor registering for VAT purposes and filing CIT and VAT returns in the same way as a local entity. Foreign contractors can apply the deduction method if they meet all of the requirements below:

- They have a PE or are tax resident in Vietnam;
- The duration of the project in Vietnam is more than 183 days; and
- They adopt the full Vietnam Accounting System (“VAS”), complete a tax registration and are granted a tax code.

The Vietnamese customer is required to notify the tax office that the foreign contractor will pay tax under the deduction method within 20 working days from the date of signing the contract.

If the foreign contractor carries out multiple projects in Vietnam and qualifies for application of the deduction method for one project, the contractor is required to apply the deduction method for its other projects as well.

The foreign contractor will pay CIT at 20% on its net profits.

b. Method Two – Direct Method

Foreign contractors adopting the direct (or withholding) method do not register for VAT purposes or file CIT or VAT returns. Instead CIT and VAT are withheld by the Vietnamese customer at prescribed rates from the payments made to the foreign contractor. Various rates are specified according to the nature of the activities performed. The VAT withheld by the Vietnamese customer is generally an allowable input credit in its VAT return.

Separate requirements for FCT declarations under this method are provided for foreign contractors providing goods and services for exploration, development and production of oil and gas.

c. Method Three – Hybrid Method

The hybrid method allows foreign contractors to register for VAT and accordingly pay VAT based on the deduction method (i.e. output VAT less input VAT), but with CIT being paid under the direct method rates on gross turnover.

Foreign contractors wishing to adopt the hybrid method must:

- Have a PE in Vietnam or be tax resident in Vietnam;

- Operate in Vietnam under a contract with a term of more than 183 days; and
- Maintain accounting records in accordance with the accounting regulations and guidance of the Ministry of Finance.

The FCT rates under the direct method are summarized below:

Industry	Deemed VAT rate (3)	Deemed CIT rate
Supply of goods in Vietnam or associated with services rendered in Vietnam (including in-country export-import and imports, distribution of goods in Vietnam or delivery of goods under Incoterms where the seller bears risk relating to the goods in Vietnam)	Exempt (1)	1%
Services	5%	5%
Services together with supply of machinery and equipment (2)	3%	2%
Restaurant, hotel and casino management services	5%	10%
Construction, installation without supply of materials, machinery or equipment	5%	2%
Construction, installation with supply of materials, machinery or equipment	3%	2%
Leasing of machinery and equipment	5%	5%
Leasing of aircraft and vessels	Exempt (4)	2%
Transportation	3%(5)	2%
Interest	Exempt	5%
Royalties	Exempt/5%(6)	10%
Insurance	Exempt/5%(7)	5%
Re-insurance, commission for re-insurance	Exempt	0,1%
Transfer of securities	Exempt	0,1%



Financial derivatives	Exempt	2%
Other activities	2%	Not mentioned

(1) VAT will not be payable where goods are exempt from VAT or where import VAT is paid upon importation.

(2) Where the contract does not separate the value of goods and services.

(3) The supply of goods and/or services to the oil and gas industry is subject to the standard 10% VAT rate. Certain goods or services may be VAT exempt or subject to 5% VAT.

(4) Where aircraft and vessels cannot be manufactured in Vietnam.

(5) International transportation is subject to 0% VAT.

(6) Software licenses, transfers of technology and intellectual property rights (including copyrights and industrial properties) are VAT exempt.

In case of trademark transfer, the VAT rate is 5%.

(7) Certain types of insurance are exempt from VAT (see “Exempt Goods and Services” in VAT section).

5.4.3 Double Taxation Agreements (“DTAs”)

The CIT withholding taxes may be affected by a relevant DTA. For example, the 5% CIT withholding on services supplied by a foreign contractor may be eliminated under a DTA if the foreign contractor does not have profits attributable to a PE in Vietnam.

Vietnam has signed more than 76 DTAs and there are a number of others at various stages of negotiation. Notable is the signed DTA with the United States of America in 2015, although this is not yet in force.

There are various guidelines on the application of DTAs. These include regulations relating to beneficial ownership and general anti-avoidance provisions. DTA entitlements will be denied where the main purpose of an arrangement is to obtain beneficial treatment under the terms of a DTA (treaty shopping) or where the recipient of the income is not the beneficial owner. The guidance dictates that a substance over form analysis is required for the beneficial ownership and outlines the factors to be considered, which include:

- Where the recipient is obligated to distribute more than 50% of the income to an entity in a third country within 12 months;



- Where the recipient has little or no substantive business activities;
- Where the recipient has little or no control over or risk in relation to the income received;
- Back to back arrangements;
- Where the recipient is resident in a country with a low tax rate;
- Where the recipient is an intermediary or agent.

5.5 Personal income tax (PIT):

5.5.1 Tax Residency

Residents are those individuals meeting one of the following criteria:

- Residing in Vietnam for 183 days or more in either the calendar year or the period of 12 consecutive months from the date of first arrival;
- Having a permanent residence in Vietnam (including a registered residence which is recorded on the permanent / temporary residence card or a rented house in Vietnam with a lease term of 183 days or more in a tax year in case of foreigners) and unable to prove tax residence in another country.

Tax residents are subject to Vietnamese PIT on their worldwide taxable income, wherever it is paid or received. Employment income is taxed on a progressive tax rates basis. Other income is taxed at a variety of different rates.

Individuals not meeting the conditions for being tax resident are considered tax non-residents. Tax non-residents are subject to PIT at a flat tax rate of 20% on their Vietnam related employment income, and at various other rates on their non-employment income. However, this will need to be considered in light of the provisions of any DTA that might apply.

5.5.2 Tax year

The Vietnamese tax year is the calendar year. However, where in the calendar year of first arrival an individual is present in Vietnam for less than 183 days, his/her first tax year is the 12 month period from the date of arrival. Subsequently, the tax year is the calendar year.

5.5.3 Employment Income

The definition of taxable employment income is broad and includes all cash remuneration and various benefits-in-kind. However, the following items are not subject to tax:

- Payments for business trips;
- Payments for telephone charges / stationery costs;



- Office clothes (subject to a cap if the office clothes are provided in cash);
- Overtime premium (i.e. the additional payment above the normal wage, not the full amount of the overtime / nightshift payment);
- One-off allowance for relocation
 - ✓ from Vietnam for Vietnamese working overseas
 - ✓ to Vietnam for expatriates working in Vietnam
 - ✓ to Vietnam for Vietnamese residing overseas on a long term basis and returning to Vietnam to work;
- Transportation to and from work;
- Once per year home leave round trip airfare for expatriate employees and Vietnamese working overseas;
- School fees up to high school in Vietnam/overseas for children of expatriates/Vietnamese working overseas
- Training;
- Mid-shift meals (subject to a cap if the meals are provided in cash);
- Certain benefits in kind provided on a collective basis (e.g. membership fee, entertainment, healthcare);
- Airfares for employees working on a rotation basis in a number of industries (e.g. petroleum, mining);
- Employer's contributions to certain local and overseas non-mandatory insurance schemes (e.g. medical insurance, accident insurance); and
- Allowances / benefits for wedding, funeral (subject to a cap);
- Học phí đến bậc trung học tại Việt Nam cho con người nước ngoài và tại nước ngoài cho con người Việt Nam làm việc ở nước ngoài;
- Training;
- Mid-shift meals (subject to a cap if the meals are provided in cash);
- Certain benefits in kind provided on a collective basis (e.g. membership fee, entertainment, healthcare);
- Airfares for employees working on a rotation basis in a number of industries (e.g. petroleum, mining);
- Employer's contributions to certain local and overseas non-mandatory insurance schemes (e.g. medical insurance, accident insurance); and



- Allowances / benefits for wedding, funeral (subject to a cap).

There are a range of conditions and restrictions applicable to the above exemptions.

5.5.4 Non-employment Income

- Business income (including rental income) in excess of VND100 million/year;
- Investment income (e.g. interest, dividends);
- Gains on sale of shares;
- Gains on sale of real estate;
- Inheritances in excess of VND10 million;
- Prizes/gifts in excess of VND10 million (excluding income from winnings at casinos);
- Income from copyright / franchising / royalties / receiving gifts in excess of VND10 million.

5.5.5 Foreign Tax Credits

In respect of tax residents who have overseas income, PIT paid in a foreign country on the foreign income is creditable.

5.5.6 Tax deductions

Tax deductions include:

1. Employee contributions to mandatory social, health and unemployment insurance schemes;
2. Employee contributions to local voluntary pension schemes (VND 12 million/year at the maximum);
3. Employee contributions to certain approved charities;
4. Tax allowances:
 - Personal allowance: VND9 million/month;
 - Dependent allowance: VND3.6 million/month/dependent. The dependent allowance is not automatically granted, and the taxpayer needs to register qualifying dependents and provide supporting documents to the tax authority.

5.5.7 PIT Rates



Residents - employment income

Annual Taxable Income (million VND)	Monthly Taxable Income (million VND)	Tax rate
0 – 60	0 – 5	5%
60 – 120	5 – 10	10%
120 – 216	10 – 18	15%
216 – 384	18 – 32	20%
384 – 624	32 – 52	25%
624 – 960	52 – 80	30%
More than 960	More than 80	35%

Residents – other income

Type of taxable income	Tax rate
Business income	0.5%-5% (based on the type of business income)
Interest (but not bank interest)/dividends	5%
Sale of shares	0.1% of the sales proceeds
Capital assignment	20% of the net gain
Sale of real estate	2% of the sales proceeds
Income from copyright	5%
Income from franchising/royalties	5%
Income from winning prizes	10%
Income from inheritances/gifts	10%

Non-residents



Type of taxable income	Tax rate
Employment income	20%
Business income	1% - 5% (based on the type of business income)
Interest/dividends	5%
Sale of shares/Capital assignment	0.1% of the sales proceeds
Sale of real estate	2% of the sales proceeds
Income from royalties/franchising	5%
Income from inheritance/gifts/winning prizes	10%

5.5.8 Administration

Tax codes

Individuals who have taxable income are required to obtain a tax code. Those who have taxable employment income must submit the tax registration file to their employer who will subsequently submit this to the local tax office. Those who have other items of taxable income are required to submit their tax registration file to the district tax office of the locality where they reside.

Tax declaration and payment

For employment income, tax has to be declared and paid provisionally on a monthly or quarterly basis by the 20th day of the following month or by the 30th day of the month following the reporting quarter, respectively. The amounts paid are reconciled to the total tax liability at the year-end. An annual final tax return must be submitted and any additional tax must be paid within 90 days of the year end. Expatriate employees are also required to carry out a PIT finalisation on termination of their Vietnam assignment. Tax refunds are only available to those who have a tax code.

For non-employment income, the individual is required to declare and pay PIT in relation to each type of taxable non-employment income. The PIT regulations require income to be declared and tax paid on a receipts basis.

5.6 Capital Assignment Profits Tax (“CAPT”)

Gains derived from the sale of a Vietnam company are in many cases subject to 20% CIT. This is generally referred to as capital assignment profits tax (CAPT) although it is



not a separate tax as such. The taxable gain is determined as the excess of the sale proceeds less cost (or the initial value of contributed charter capital for the first transfer) less transfer expenses.

Where the vendor is a foreign entity, a Vietnamese purchaser is required to withhold the tax due from the payment to the vendor and account for this to the tax authorities. Where the purchaser is also a foreign entity, the Vietnamese enterprise in which the interest is transferred is responsible for the CAPT administration. The CAPT declaration and payment is required within 10 days from the date of official approval of the sale by a competent body or, where approval is not required, 10 days from the date the parties reach agreement on the sale in the contract.

The tax authorities have the right to adjust the transfer price for CAPT purposes where the price is not consistent with the market price or where the price is not stipulated in the agreement.

Transfers of securities (bonds, shares of public joint stock companies, etc.) by a foreign entity are subject to CIT on a deemed basis at 0.1% of the total sales proceeds. Gains derived by a resident entity from the transfer of stocks (except for securities) are however taxed at 20%.

5.7 Special Sales Tax (“SST”)

SST is a form of excise tax that applies to the production or import of certain goods and the provision of certain services.

Imported goods (except for various types of petrol) are subject to SST at both the import and selling stages, of which SST already paid at the import stage is deducted from SST payable at the selling stage.

5.7.1 Tax Rates

The Law on SST classifies objects subject to SST into two groups:

1. Commodities - cigarettes, liquor, beer, automobiles having less than 24 seats, motorcycles, airplanes, boats, petrol, air-conditioners up to 90,000 BTU, playing cards, votive papers; and
2. Service activities - discotheques, massage, karaoke, casinos, gambling, lotteries, golf clubs and entertainment with betting.

5.7.2 The SST rates are as follows:

Products/services	Tax rates (%)
Cigars/ Cigarettes	
- From 01 January 2016 to 31 December 2018	70

- From 01 January 2019	75
Spirits/wine	
a) Spirit/Wine with ABV $\geq 20^\circ$	55
- From 01 January 2016 to 31 December 2016	60
- From 01 January 2017 to 31 December 2017	65
- From 01 January 2018	
b) Spirit/Wine with ABV $< 20^\circ$	30
- From 01 January 2016 to 31 December 2017	35
- From 01 January 2018	
Beer	
- From 01 January 2016 to 31 December 2016	55
- From 01 January 2017 to 31 December 2017	60
- From 01 January 2018	65
Automobiles having less than 24 seats	10 – 150
Motorcycles with cylinder capacity above 125cm ³	20
Airplanes	30
Boats	30
Petrol	7- 10
Air-conditioner (not more than 90,000 BTU)	10
Playing cards	40
Votive papers	70
Discotheques	40
Massage, karaoke	30
Casinos, jackpot games	35
Entertainment with betting	30
Golf	20
Lotteries	15



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