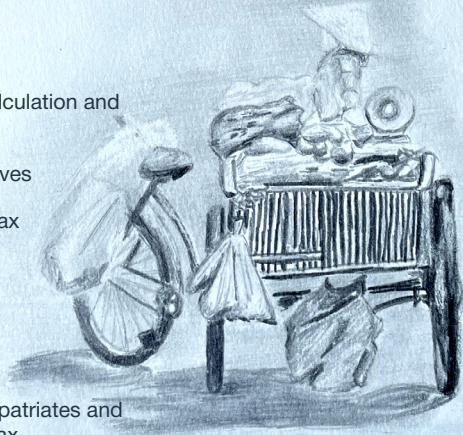


VIETNAM TAX BOOKLET 2024

- All key tax rates
- Methods of tax calculation and payment
- Investment incentives
- Global Minimum Tax
- Transfer Pricing
- Profits repatriation
- VAT refunds
- Employment of expatriates and personal income tax



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CONTENTS

| | |
|----|---|
| i | Quick Reference – Key Tax Rates |
| 1 | Abbreviations |
| 2 | Overview |
| 3 | Tax agents |
| 4 | Tax declaration and tax settlement |
| 5 | Tax audit and penalties |
| 6 | Corporate Income Tax |
| 17 | Global Minimum Tax |
| 19 | Transfer pricing |
| 22 | Value Added Tax |
| 30 | Personal Income Tax |
| 35 | Foreign Contractor Tax |
| 39 | Special Sales Tax |
| 41 | Natural Resources Tax (NRT) |
| 42 | Non-agriculture Land Use Tax |
| 42 | Environmental protection tax |
| 43 | Import and Export Tax |
| 46 | Accounting and Auditing Requirements |
| 47 | Double Taxation Agreements |
| 50 | Social, Health and Unemployment Insurance Contributions |
| 52 | Labour compliance for expatriates working in Vietnam |

Quick Reference – Key Tax Rates

Corporate Income Tax

| Type of business or project | Rate |
|--|------------|
| Standard rate | 20% |
| Companies operating in the oil and gas industry | 32% - 50% |
| Companies engaged in prospecting, exploration and exploitation of mineral resources (e.g. silver, gold, gemstones) | 40% - 50% |
| Tax incentive rate for incentivized projects | 10% or 15% |

Note that Vietnam tax system is undergoing revisions as part of implementation of the Global Minimum Tax. See special update on latest developments in “**Publications – Vietnam**” section of vdb-loi.com or by following this [LINK](#). Please also refer to the “**Global Minimum Tax**” section in this report below.



Personal Income Tax

With respect to a resident taxpayer, the progressive tax rates on income from business or from salaries or wages:

| Tax Level | Portion of assessable income per year (million VND) | Portion of assessable income per month (million VND) | Rate |
|-----------|---|--|------|
| 1 | Up to 60 | Up to 5 | 5 |
| 2 | Over 60 up to 120 | Over 5 up to 10 | 10 |
| 3 | Over 120 up to 216 | Over 10 up to 18 | 15 |
| 4 | Over 216 up to 384 | Over 18 up to 32 | 20 |
| 5 | Over 384 up to 624 | Over 32 up to 52 | 25 |
| 6 | Over 624 up to 960 | Over 52 up to 80 | 30 |
| 7 | Over 960 | Over 80 | 35 |

Non-resident taxpayers are subject to the following tax rates:

| Type of income | Rate |
|---|---|
| Profits from business operation: <ul style="list-style-type: none">• Trading goods• Performing services• Production, construction, transportation and other business operations | 1% of revenue 5% of revenue 2% of revenue |
| Employment income | 20% |
| Interest and dividends | 5% |
| Sales of shareholdings and securities | 0.1% of sale proceeds |
| Sales of real estate | 2% of sale proceeds |
| Royalties and franchising earnings exceeding VND10 million | 5% |
| Winnings, inheritance and gifts exceeding VND10 million | 10% |

Foreign Contractor Tax (FCT)

VAT withholding rates under the FCT regime

| No. | Business lines | VAT withholding rates |
|-----|--|-----------------------|
| 1. | Services, machinery and equipment leasing business, insurance, and construction and assembly and installation where the tender did not include the supply of materials, machinery and equipment in the construction work | 5% |
| 2. | Production, transportation, services associated with supplies, construction and assembly and installation where the tender included the supply of materials, machinery and equipment in the construction work | 3% |
| 3. | Other business | 2% |

Corporate Income Tax (CIT) withholding rates under the FCT regime

| No. | Business lines | CIT rates as a percentage (%) of taxable turnover |
|-----|---|---|
| 1. | Trading: distribution and supply of goods, raw materials, supplies, machinery and equipment associated with services in Vietnam (including the provision of goods under on spot import export; provision of goods under DDP, DAT, DAP of incoterms) | 1 |
| 2. | Services, lease of machinery and equipment, lease of drilling platform, insurance | 5 |
| 3. | Management services of hotels, restaurants, casinos | 10 |

| No. | Business lines | CIT rates as a percentage (%) of taxable turnover |
|-----|--|---|
| 4. | Lease of aircraft, aircraft engines, aircraft spare parts and sea- going vessels | 2 |
| 5. | Construction, installation | 2 |
| 6. | Other production or business activities, and transportation (including sea and air transportation) | 2 |
| 7. | Assignments [transfer] of securities, reinsurance to overseas, commission of transfer of reinsurance | 0.1 |
| 8. | Derivative financial services | 2 |
| 9. | Loan interest | 5 |
| 10. | Income from royalties | 10 |

Value Added Tax

| No. | Business lines | VAT rates |
|-----|--|-----------|
| 1. | 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. | 0% |
| 2. | 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. | 5% |

| No. | Business lines | VAT rates |
|-----|--|-----------|
| 3. | Activities not specified as not-subject to VAT, exempt or subject to 0% or 5%. | 10% |

Natural Resources Tax

| Item | Rate |
|--|--------|
| Natural resources tax is payable by industries exploiting Vietnam's natural resources including petroleum, minerals, natural gas, forest products, natural seafood, natural bird's nests, and natural water. | 1%-40% |

Special Sales tax

| Products / services | Rate |
|---|----------|
| Cigar/Cigarettes | 75 |
| Spirit/Wine | |
| a) Spirit/Wine with ABV $\geq 20^\circ$ | 65 |
| b) Spirit/Wine with ABV $< 20^\circ$ | 35 |
| Beer | 65 |
| Automobiles having less than 24 seats | |
| - From 1 January 2018 | 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 |

| Products / services | Rate |
|----------------------------|------|
| Entertainment with betting | 30 |
| Golf | 20 |
| Lotteries | 15 |

Land use tax

| Item | Rate |
|---|---------------|
| The tax is charged on the specific land area used based on the prescribed price per square meter and progressive tax rates ranging from 0.03% to 0.15%. | 0.03% – 0.15% |

Environment Protection Tax

| No. | Goods | Unit | Tax rate (VND) |
|-----|------------------------------|----------|-----------------|
| 1. | Petrol, diesel, grease, etc. | liter/kg | 500 - 4,000 |
| 2. | Coal | ton | 15,000 - 30,000 |
| 3. | HCFCs | kg | 5,000 |
| 4. | Plastic bags (*) | kg | 50,000 |
| 5. | Restricted use chemicals | kg | 500 - 1,000 |

(*) *Excluding plastic bags used for packaging or those that are environmentally friendly*

Social, Health and Unemployment Insurance Contributions

The current applicable rate of Social Insurance (SI), Health Insurance (HI) and Unemployment Insurance (UI) are as follows:

| | SI | HI | UI | Total |
|----------|-------|------|----|-------|
| Employee | 8% | 1.5% | 1% | 10.5% |
| Employer | 17.5% | 3% | 1% | 21.5% |

Abbreviations

| Term | Definition |
|------|---|
| CIT | Corporate Income Tax |
| DTA | Double Taxation Agreement |
| EPT | Environment Protection Tax |
| FC | Foreign Contractor |
| FCT | Foreign Contractor Tax |
| FTA | Free Trade Agreement |
| GDT | General Department of Taxation |
| LOT | Law on Taxation |
| LUT | Land Use Tax |
| NRT | Natural Resources Tax |
| PE | Permanent establishment |
| PIT | Personal Income Tax |
| SHUI | Social, Health and Unemployment Insurance |
| SST | Special Sales Tax |
| VAS | Vietnam Accounting System |
| VAT | Value Added Tax |
| VN | Vietnam |



Overview

Vietnam tax system has been continuously reformed and updated during the past years to achieve better transparency and ease of application for both taxpayers and tax management.

Most of business activities and investments in Vietnam will be subject to the following taxes:

- Corporate income tax
- Value Added Tax
- Personal Income tax for individuals (including expatriates and Vietnamese citizens)
- Foreign Contractor Tax (applicable for non-resident organizations sourcing income from Vietnam)
- Import tax
- Certain other special business activities are subject to below taxes:
 - Special sales Tax
 - Natural resources Tax
 - Environment Protection Tax
 - Land Use Tax (non- agricultural land use tax)
 - Export Tax

All of these taxes are imposed at national level. There are generally no local or provincial taxes.

Taxes are paid in Vietnam dong (VND) except for certain activities in oil and gas.

Tax payable is mostly calculated using “**tax base**” and relevant “**tax rate**”. Tax rate can be both flat and progressive. Absolute tax is applied in relation to import tax (e.g. second hand goods) or as part of environment protection tax.

Tax agents

Currently taxpayers can do tax procedures by themselves directly with tax authorities. They can outsource the service to a non-tax agent, but they still be the one who signs on all tax returns and be liable for tax compliance.

Where the taxpayer signs a taxation service contract with a tax agent, the legal representative of the tax agent shall add a signature and seal on the tax document. The tax declaration must contain full name and license number of the employee of the tax agent. Only the delegated tasks in the taxation service contract shall be performed.

At least 5 days before the performing the contractual tasks for the first time, the taxpayer must send a written notification to the tax authority of the purposes of the taxation services together with a copy of the taxation service contract, which is certified by the taxpayer.



Tax declaration and tax settlement

Currently, most taxpayers can declare tax online with e-signature for common taxes such as corporate income tax, value added tax and personal income tax. Only certain tax will be done by way of submission of hard copy documentation. Taxpayer will engage a service provider of e-signature to be granted a token for access to tax declaration application.

Tax settlement can be done onshore in VND by bank transfer or cash deposit directly to the State Treasury. Payment instructions must clearly indicate taxpayer's name, tax code, tax budget index so the tax amount can be recorded correctly to the budget. For example, a tax amount can be mistakenly recorded, leading to the situation that a taxpayer can be in underpaid tax position for VAT, but overpaid tax for CIT in tax system and those cannot be automatically offset against each other.

Taxes can also be paid from offshore in foreign currency. However, particular attention should be given to payment instructions and gaps on intermediary bank charge and exchange rate. Tax cannot be remitted directly to the State Treasury, but rather via a local commercial bank first, who then credits the amount to the relevant State Treasury.



Tax audit and penalties

Taxpayers may be subject to tax audits at the discretion of the local tax authorities. They may be conducted up to 10 years after the initial filing of taxes. Prior to an audit, the tax authorities send the taxpayer a written notice specifying the timing and scope of the audit inspection.

There are normally three forms of tax audits:

1. **Desk audit:** This level of control is designed to verify the accuracy of declared information by cross-checking it with the tax return or other information requested by the tax administration.
2. **Limited audit:** This audit is more extensive. Tax auditors will use all available resources, including visits to the taxpayer's place of business, to verify the accuracy of the taxpayer's returns.
3. **Comprehensive tax audit:** In practice, this is the same as a limited audit, only more extensive and thorough. The important distinction between a comprehensive audit and a limited audit is that once the audit has been completed, and any resulting tax reassessments have been paid, all tax years covered by the audit will be closed.

Although a comprehensive tax audit is normally final, if the tax administration has reason to believe a taxpayer has committed tax evasion or fraud, they may re-open the case.

There are detailed regulations setting out penalties for various tax offences. These range from relatively minor administrative penalties through to tax penalties amounting to various multiples of the additional tax assessed. For discrepancies identified by the tax authorities (e.g. upon audit), a 20% penalty will be imposed on the amount of tax under-declared. Late payment of tax is subject to interest of 0.03% per day of the tax liability.

In case of tax shortage is found as tax evasion, a penalty of one to three times of tax shortage amount is imposed.

The general statute of limitations for imposing tax and late payment interest is 10 years (effective 1 July 2013) and for penalties is up to 5 years. Where the taxpayer did not register for tax, there is no statute of limitation for imposing tax and late payment interest.

Corporate Income Tax

Method of tax calculation

The payable CIT amount in a tax period equals to taxed income multiplied by the tax rate. The payable CIT shall be determined by the following formula:

$$\text{Payable CIT} = \{\text{Taxed income} - \text{Deduction for setting up the science and technology fund (if any)}\} \times \text{CIT rate}$$

$$\text{Taxed income} = \text{Taxable income} - \{\text{Tax-exempted income} + \text{Losses carried forward under regulations}\}$$

$$\text{Taxable income} = \{\text{Turnover} - \text{Deductible expenses}\} + \text{other incomes}$$

An enterprise that has paid CIT or a tax similar to CIT outside Vietnam may deduct the paid CIT amount not exceeding the payable CIT amount in a period under the Law on Corporate Income Tax.

Tax period shall be determined according to calendar year. For enterprises that apply a fiscal year different from the calendar year, the tax period shall be determined according to the applied fiscal year. The first tax period for a newly established enterprise and the last tax period for an enterprise transforming its type, changing its form of ownership, merged, separated, split, dissolved or going bankrupt shall be determined in accordance with the accounting period prescribed by the accounting law.

If the tax period of the first year of a newly established enterprise counting from the time of receiving a business registration certificate or investment certificate, or if the tax period of the last year for an enterprise transforming its type, changing its form of ownership, merged, separated, split, dissolved or going bankrupt, is shorter than 3 months, it may be added up to the tax period of the subsequent year (for a newly established enterprise) or to the tax period of the previous year (for an enterprise transforming its type, changing its form of ownership, merged, separated, split, dissolved or going bankrupt) to form an corporate income tax period. The corporate income tax period of the first year or of the last year must not exceed 15 months.

Enterprises which have turnover, expenses and other incomes in foreign currency shall convert these amounts into Vietnam dong (VND) at the average interbank exchange rate announced by the State Bank of Vietnam at the time of arising of these amounts, unless otherwise provided by law. For a foreign currency without exchange rate with Vietnam dong, conversion shall be carried out via a foreign currency with an exchange rate with Vietnam dong.

Tax returns

Enterprises are not required to prepare quarterly tax return. Enterprises have obligation to self-calculate quarterly taxable profit and provisionally pay the tax to the State budget. The payment must be made within 30 days of the subsequent quarter.

Enterprises are required to submit their annual tax return within 90 days from the end of the tax year together with the audited financial statements.

If the provisional quarterly CIT payments amount to less than 80% of the final CIT liability, any shortfall in excess of 20% is subject to late payment interest, applied from the deadline for payment of the Quarter 4 CIT liability.

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.

Non-deductible expenses

Expenses are tax deductible, if they relate to the generation of revenue, are properly supported by suitable documentation (including bank transfer vouchers where the invoice value is VND20 million or above) and are not specifically identified as being non-deductible. 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 (including certain benefits provided to family members of staff) exceeding a cap of one month's average salary. Non- compulsory medical and accident insurance is considered a form of staff welfare;
- Contributions to voluntary pension funds exceeding VND 1 million per month per person;
- 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 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;

For certain businesses such as insurance companies, securities trading and lotteries, the Ministry of Finance provides specific guidance on deductible expenses for CIT purposes.

Enterprises in Vietnam are allowed to set up a tax deductible research and development fund to which they can appropriate up to 10% of annual profits before tax. Various conditions apply.

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-incentivized 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. There is no provision for consolidated filing or group loss relief.

Repatriation of profits/dividends

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 on its financial statements.

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

There is no withholding tax imposed on dividend/profit distributed to corporate shareholder. A shareholder being an individual will be subject to personal income tax on income from investment (i.e. currently flat rate 5%).

Income from capital transfer

Income from capital transfer does not qualify to any tax incentives. Gains derived from the sale of a Vietnam company are generally subject to 20% CIT.

This is generally referred to as capital gain tax 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 non-resident, 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 non-resident, the Vietnamese enterprise in which the share is transferred is responsible for the capital tax compliance. The capital gain tax declaration and payment are 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 capital gain tax 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 non-resident 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 securities are however taxed at 20%.

Income from transfers of real estate

Incomes from real estate transfers include income from the transfer of land use right, or land lease right (including also the transfer of projects associated with the transfer of land use rights or land lease right in accordance with law); income from the sublease of land of real estate enterprises in accordance with the land law regardless of whether there is an infrastructure facility or architectural work attached to land; income from the transfer of houses or construction works attached to land, including their appurtenances, in case the value of such appurtenances is inseparable upon the transfer, regardless of whether land use rights or land lease right are/is transferred; and income from the transfer of house ownership or use right.

Taxable income from real estate transfer is the turnover from real estate transfer minus the cost of the real estate and deductible expenses related to the real estate transfer.

The time of determining taxed turnover is the time the seller hands over the real estate to the purchaser, regardless of whether the purchaser has registered the property ownership or land use rights or has its land use rights established at a competent state agency.



If the enterprise collecting money from customers can determine expenses corresponding to recorded turnover (including also pre-deducted expenses in the estimated costs of uncompleted work items corresponding to recorded turnover), it shall declare and temporarily pay a corporate income tax amount based on turnover minus these expenses.

If the enterprise collecting money from customers cannot determine expenses corresponding to turnover, it shall declare and provisionally pay CIT amount equal to 1% of the collected sum of money which is not required to be included in the turnover used for calculating CIT in the year. When handing over real estate, the enterprise shall finalize CIT and re-finalize the payable CIT amount. If the temporarily paid CIT amount is smaller than the payable CIT amount, the enterprise shall fully remit the deficit into the state budget. If the temporarily paid CIT amount is higher than the payable CIT amount, the enterprise may either have the overpaid tax amount cleared against the subsequent period's payable enterprise income tax amount or have it refunded.

Income from real estate generally does not qualify for tax incentives.

Tax incentives

Corporate income tax incentives are applicable only to enterprises which observe accounting, invoice and document regulations and register and pay CIT on net gain basis.

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 reorganizations.

The preferential tax rate of 10% for fifteen (15) years is applicable to:

a/ Incomes of enterprises from the implementation of new investment projects in geographical areas with particularly difficult socio-economic conditions specified in the Appendix to Decree No. 218/2013/ND-CP, economic zones and hi-tech zones, including information technology parks established under the Prime Minister's decisions.

b/ Incomes of enterprises from the implementation of new investment projects in the fields of scientific research and technological development; application of high technologies on the list of high technologies prioritized for development investment in accordance with the Law on High Technologies; nursery of high technologies and hi-tech enterprises; venture investment in development of high technologies on the list of high technologies prioritized for development in accordance with the Law on High Technologies; construction investment and commercial operation of establishments nursing high technologies and hi-tech enterprises; investment in development water plants, power plants, water supply and drainage systems; bridges, roads, railways; airports, seaports, river ports; air fields, stations and other particularly important

infrastructure facilities decided by the Prime Minister; production of software products; manufacture of composite materials, light building materials, rare and precious materials; generation of renewable energies, clean energy and energy from the waste disposal; development of biotechnology;

c/ Incomes of enterprises from the implementation of new investment projects in the field of environmental protection, covering manufacture of equipment for treating environmental pollution, equipment for environmental observation and analysis; environmental pollution treatment and protection; collection and treatment of wastewater, exhaust and solid wastes; recycling and reuse of wastes;

d/ Hi-tech enterprises and agricultural enterprises applying high technologies defined in the Law on High Technologies;

dd/ Incomes of enterprises from the implementation of new investment projects in the fields of production (except projects producing goods items liable to excise tax and mineral mining projects) which satisfy either of the following conditions:

- A project has an initial registered investment capital of at least VND 6 (six) trillion, fully disburses the capital within 3 years after being granted an investment license, and has a total turnover of at least VND 10 (ten) trillion/year from the 4th year after the year when turnover is first generated.
- A project has an initial registered investment capital of at least VND 6 (six) trillion, fully disburses the capital within 3 years after being granted an investment license, and regularly employs an average of over 3,000 laborers/year from the 4th year after the year when turnover is first generated.

The preferential tax rate of 10% is applicable throughout the operation duration to:

a/ Incomes of enterprises from socialized education and training, job training, health care, culture, sports and environmental protection activities (below referred to as socialized fields); The list of types,

sizes and standards of enterprises engaged in socialized fields is that promulgated by the Prime Minister;

b/ Incomes of enterprises from the forest planting, tending and protection; agricultural cultivation, planting of forest trees and aquaculture in geographical areas with difficult socio-economic conditions; production, propagation and hybridization of plant varieties and animal breeds; salt production, exploitation and refinery, investment in the preservation of post-harvest farm produce, aquatic products and foodstuffs;

c/ Incomes of enterprises from the implementation of projects on investment and trading in social houses for sale or lease to or hire-purchase by the subjects specified in Article 53 of the Housing Law;



The preferential tax rate of 20% for ten (10) years is applicable to:

a/ Incomes of enterprises from the implementation of new investment projects in geographical areas with difficult socio-economic conditions specified in the Appendix to the Government's Decree No. 218/2013/ND-CP;

b/ Incomes from enterprises from the implementation of new investment projects on production of hi-class steel, energy-conserving products, machinery and equipment for agriculture, forestry, fisheries and salt production, irrigation and drainage equipment, livestock and aquatic animal feed; and development of traditional crafts and trades (including building and development of traditional handicraft production, farm produce and food processing and production of cultural products);

The duration of application of preferential tax rates specified above shall be counted consecutively from the first year when enterprises generate turnover from new investment projects eligible for tax incentives.

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.

Global Minimum Tax

The Global Minimum Tax (“**GMT**”) Resolution was approved by the Vietnamese National Assembly on November 29, 2023 and will enter into force on January 1, 2024.

The Global Minimum Tax is a one of the two main pillars of the Action Program to combat Base Erosion and Profit Shifting (“**BEPS**”) initiated by the Organization for Economic Cooperation and Development (“**OECD**”) in June 2013.

The concept of global minimum tax relates to the corporate income tax payable by multinational companies that meet threshold defined by OECD. In Vietnam, on November 29th, the National Assembly enacted a Resolution on the implementation of an additional corporate income tax in accordance with regulations to prevent global tax base erosion (“**GloBE**”). Under the plan, CIT at a rate of at least 15% shall apply to multinational companies with total global consolidated revenue of 750 million EUR (approx. 800 million USD).

The GMT resolution defines “**Additional CIT**” as Additional Tax Rate * Excess Profit. The Additional Tax Rate will be the gap between the Global Minimum Tax Rate and the Effective Tax Rate that the company bears in Vietnam. The Global Minimum Tax Rate is set at 15% while the Effective Tax Rate of a MNE in Vietnam is the sum of applicable tax attributed for Vietnam entity member in a financial year over net income in accordance with the GloBE.

The GMT Resolution further refers to two new concepts: the Income Inclusion Rule (“**IIR**”) and the Qualified Domestic Minimum Top-up Tax (“**QDMTT**”).

The IIR

This applies to:

- a. Ultimate parent companies,
- b. Partially owned parent companies, or
- c. Intermediate parent companies

which are based in Vietnam and have direct or indirect ownership of a low-tax foreign constituent entity under global minimum tax regulations at any time during the fiscal year.

The Additional Corporate Income Tax is exempted (zero tax) for a member entity in a jurisdiction if such member entity meets all conditions below:

- Average revenue as per the GloBE in that jurisdiction is less than EURO 10 million;
- Average income as per the GloBE in that jurisdiction is less than EURO 1 million or in loss position;

The QDMTT

On the other hand, this applies to MNE constituent units or groups of constituent units that have production or business activities in Vietnam throughout the financial year. The Additional Corporate Income Tax is exempted (zero tax) for a member entity (or group of members) in Vietnam, if such member entities meet all conditions below:

- Average revenue as per the GloBE in Vietnam is less than EURO 10 million;
- Average income as per the GloBE in Vietnam is less than EURO 1 million or in loss position;

GMT Resolution provides that a report on qualification under QDMTT or IIR shall be filed within specific timeline:

- a. 9 months after the end of the fiscal year for taxpayers who qualify for QDMTT regulations; and
- b. 15 months after the end of the fiscal year for taxpayers who qualify for IIR regulations.

Transfer pricing

Vietnam's transfer pricing regulations are currently governed by Decree 132/2020/ND-CP dated 05 November 2020.

Decree 132 extends the interpretation of existing provisions and introduces additional concepts and principles from the Transfer Pricing Guidelines of the Organization for Economic Cooperation and Development (OECD) and BEPS Action Plan.

Related Party Definition

The ownership threshold required to be a “**related party**” under Decree 132 is 25%, higher than the old 20% under expired Circular 66.

Vietnam's transfer pricing rules also apply to domestic related party transactions.



TP Methodologies

The acceptable methodologies for determining arm's length pricing are analogous to those introduced by OECD in the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, i.e. comparable uncontrolled price, resale price, cost plus, profit split and comparable profits methods.

TP Documentation

Compliance requirements include an annual declaration of related party transactions and transfer pricing methodologies used, and a taxpayer confirmation of the arm's length value of their transactions (or otherwise the making of voluntary adjustments), which is required to be filed together with the annual CIT return.

Decree 132 requires that the TP method applied must ensure that there is no loss of tax revenue to the state budget, which could imply that no downward adjustments are allowed. Decree 132 also introduces a new TP declaration form which requires disclosure of more detailed information, including segmentation of profit and loss by related party and third party transactions.

Decree 132 gives the tax authorities the power to use internal databases for TP assessment purposes in cases where a taxpayer is deemed noncompliant with the requirements of the Decree.

Taxpayers engaged in related party transactions solely with domestic related parties could be exempt from the requirement to disclose information on such transactions in the new TP declaration form, where both parties have the same tax rate and neither party enjoys tax incentives.

Companies which have related party transactions must also prepare and maintain contemporaneous transfer pricing documentation.

Decree 132 introduces a three-tiered TP documentation approach to collect more tax-related information on multinational companies' business operations, specifically, master file, a local file and country-by-country reporting.

The three-tiered TP documentation has to be prepared before the
Page 20

submission date of the annual tax return, which gives taxpayers just 90 days (from the fiscal yearend date) to complete the year's TP documentation.

A taxpayer is exempt from preparing TP documentation (but not all other aspects of the Decree) if one of the following conditions is met:

- Has revenue below VND 50 billion and total value of related party transactions below VND 30 billion in a tax period; or
- Concludes APA and submits annual APA report(s); or
- Has revenue below VND 200 billion, performs simple functions and achieves at least the following ratios of earnings before interest and tax to revenue on the following business: distribution (5%), manufacturing (10%), processing (15%).



Value Added Tax

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 it pays import duties. For imported services, VAT is levied via the FCT mechanism (see below about Foreign Contractor Tax).

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.

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;
- Certain services rendered by a foreign organization which does not have a PE in Vietnam where the services are rendered outside of Vietnam, including repairs to means of transport, machinery or equipment, advertising, marketing, promotion of investment and trade to overseas brokerage activities for the sale of goods and services overseas, training, certain international telecommunication services;
- Sales of assets by non-business organizations or individuals not registered for VAT;

- Transfer of investment projects;
- Sale of agricultural products that have not been processed into other products or which have only been through preliminary processing;
- Capital contributions in kind;
- Certain asset transfers between a parent company and its subsidiaries or between subsidiaries of the same parent company;
- Collections of compensation/indemnities by insurance companies from third parties;
- Collections on behalf of other parties which are not involved in the provision of goods/services;
- Commissions earned by (i) agents selling services, including postal, telecommunications, lottery, airlines/bus/ship/train tickets, at prices determined by principals; and (ii) agents for international transportation, airlines and shipping services entitled to 0% VAT; and (iii) insurance agents;
- Commissions from the sale of exempt goods/services; Lending or return of machinery, equipment, goods;
- Goods exported and then re-imported back to Vietnam due to sales returns by overseas customers.

VAT- Exempt Goods and Services

The following goods/services may fall under VAT exemption:

- Certain agricultural products;
- Goods/services provided by individuals having annual revenue of VND 100 million or below;
- Imported or leased drilling rigs, aero planes and ships of a type which cannot be produced in Vietnam;
- Transfer of land use rights (subject to limitations);
- Financial derivatives and credit services (including credit card issuance, finance leasing and factoring); 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;
- Debt factoring;
- Certain insurance services (including life insurance, health insurance, agricultural insurance and reinsurance);
- Medical services; elderly/disabled people care 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;
- Gold imported in pieces which have not been processed into jewelry;
- Exported natural resources which are unprocessed or processed with at least 51% of their costs being natural resources and energy.
- Imports of machinery, equipment and materials which cannot be produced in Vietnam for direct use in science research and technology development activities;
- Equipment, machinery, spare parts, specialized means of transport and necessary materials which cannot be produced in Vietnam for prospecting, exploration and development of oil and gas fields;
- Goods imported in the following cases: international non-refundable aid, including from Official Development Aid, foreign donations to government bodies and to individuals (subject to limitations);
- Fertilizer, feed for livestock, poultry, seafood and other animals, machinery and equipment specifically used for agriculture.

VAT Rates

The three VAT rates are as follows:

- **0%:** applicable 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.
- **5%:** applicable to 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.
- **10%:** applicable to activities not specified as not-subject to VAT, exempt or subject to 0% or 5%.

Currently, the VAT rate for most of the goods and services that apply 10% rate are entitled to 2% rate reduction until 30 June 2024.



Exported Goods and Services

Services directly rendered and goods sold to foreign companies, including companies in non-tariff areas, are subject to 0% VAT, if they are consumed outside Vietnam or in non-tariff areas.

Various supporting documents are required in order to apply 0% VAT to exported goods and services (except for international transportation services): e.g. contracts, evidence of non-cash payment and customs declarations (for exported goods).

There are a number of services specified in the VAT regulations which do not qualify for 0% VAT, in particular advertising, hotel services, training, entertainment, tourism provided in Vietnam to foreign customers; and various services provided to non-tariff areas (including leasing of houses, transport services for employees to and from their work place, certain catering services) and services in relation to trading or distribution of goods in Vietnam.

VAT Calculation Methods

There are two VAT calculation methods:

Deduction method

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.

VAT payable:

VAT payable = Output VAT - Input VAT

Output VAT:

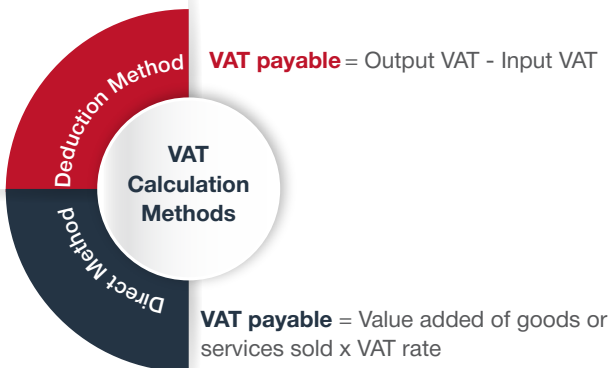
The output VAT to be charged is calculated by multiplying the taxable price (net of tax) by the applicable VAT rate. With respect to imported goods, VAT is calculated on the import dutiable value plus

import duty plus special sales tax (if applicable) plus environment protection fee (if applicable). 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 VAT-able supplies.

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



Direct Method

This method applies to:

- Business establishments with annual revenue subject to VAT of less than VND1 billion;
- Individuals and business households;
- Business establishments which do not maintain proper books of account and foreign organizations or individuals carrying out business activities in forms not regulated in the Law on Investment;
- Business establishments engaged in trading in gold, silver and precious stones.

VAT payable:

VAT payable = value added of goods or services sold x VAT rate

Where there is a negative value added from the trading in gold, silver or precious stones in a period, it can be offset against any positive value added of those activities in the same period. Any remaining negative balance can be carried forward to a subsequent period in the same calendar year but cannot be carried over to the next year.

Once selected, the VAT declaration method must be maintained for 2 consecutive years.

VAT filing compliance

All organizations and individuals producing or trading VAT-able 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).

VAT Refunds

From 1 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. The amount of input VAT relating to export sales (meeting the criteria for VAT refunds) that can be refunded to a taxpayer must not exceed 10% of its export revenue. VAT refunds are not available to companies which import goods and then export them without further processing;
- 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;
- Liquidation, bankruptcy, changes in the ownership of the companies, changes in the company form, merger, consolidation, demerger, division;
- Certain ODA projects, diplomatic exemption, foreigners buying goods in Vietnam for consumption overseas.

In other cases where a taxpayer's input VAT for a period exceeds its output VAT, it will have to carry the excess forward to offset future output VAT.

Proper Invoices

Enterprises in Vietnam now are required to use e-invoice. The proper invoice template must contain stipulated items and be registered with or notified to the local tax authorities. For exported goods commercial invoices under international practice are used instead of domestic invoice template.

Personal Income Tax

General

PIT is applicable to individual taxpayers, including any resident individual with taxable income arising either within or outside the territory of Vietnam, and any non-resident individual with taxable income arising within the territory of Vietnam.

A “**resident individual**” means any person satisfying one of the following conditions: (a) being present in Vietnam for a period of 183 days or more (calculated within one western calendar year or within 12 consecutive months from the date of entry into Vietnam); or (b) having a regular accommodation in Vietnam, including a registered permanent address and/or a contracted rental house, with an accumulated period of more than 183 days.

Taxable income

Salaries and wages (which an employee receives from an employer in cash or in kind) are taxable under Circular 111. Such income also includes additional benefits and bonuses.

The taxable income from salaries or wages is determined to be equal to total salaries, total wages, total remuneration and other income in the nature of salary or wages received by the PIT payer during the tax period in accordance with Circular 111.

The time for determination of taxable income is the date on which the employer pays the salary or wages to the taxpayer or the date the taxpayer receives such income. Note that certain personal deductions are taken into account when determining PIT liability.

In addition to salaries and wages, individuals are also subject to PIT on income relating to interest, dividends, royalties, winnings, and sales of shareholdings, securities and real estate.

Determination of personal tax deductions

The PIT Law permits a resident taxpayer to deduct an allowance amount from taxable income for family considerations (i.e. dependents).

The rate of deduction for family considerations is as follows: (a) for each individual PIT payer, the rate is VND9 million per month (or VND108 million per year); and (b) for each dependent person who relies on the PIT payer for financial support, the rate is VND3.6 million per month from the month such financial support obligation arises.

In addition to family considerations, deductions are permitted for contributions to charity, humanitarian and education encouragement funds. Such contributions require valid receipts from social welfare establishments and funds as documentary evidence of the contributions for charity, humanitarian and education encouragement purposes.



Tax rates

With respect to a resident taxpayer, the progressive tax rates on income from business or from salaries or wages are as follows:

| Tax Level | Portion of assessable income per year (million VND) | Portion of assessable income per month (million VND) | Rate (%) |
|-----------|---|--|----------|
| 1 | Up to 60 | Up to 5 | 5 |
| 2 | Over 60 up to 120 | Over 5 up to 10 | 10 |
| 3 | Over 120 up to 216 | Over 10 up to 18 | 15 |
| 4 | Over 216 up to 384 | Over 18 up to 32 | 20 |
| 5 | Over 384 up to 624 | Over 32 up to 52 | 25 |
| 6 | Over 624 up to 960 | Over 52 up to 80 | 30 |
| 7 | Over 960 | Over 80 | 35 |

Non-resident taxpayers are subject to the following tax rates:

| Type of income | Rate |
|---|---|
| Profits from business operation: <ul style="list-style-type: none">• Trading goods• Performing services• Production, construction, transportation and other business operations | 1% of revenue 5% of revenue 2% of revenue |
| Employment income | 20% |
| Interest and dividends | 5% |
| Sales of shareholdings and securities | 0.1% of sale proceeds |
| Sales of real estate | 2% of sale proceeds |
| Royalties and franchising earnings exceeding VND10 million | 5% |
| Winnings, inheritance and gifts exceeding VND10 million | 10% |

Note that PIT with respect to a taxpayer will need to be considered

in light of the provisions of any Double Tax Treaty Agreement (DTA) to which Vietnam is a signatory.

Taxable and non-taxable benefits

Under the PIT regulations, certain types of an expatriate's income are exempt from PIT or calculated on a limited basis (such as housing allowance, home leave air ticket, tuition fee for children, one-off relocation allowance).

- **Housing allowance:** Generally, if an employer offers an employee a housing allowance, and the employer pays directly to the landlord and receives an invoice from the landlord, then such housing allowance will be subject to PIT (for the employee) on: 15% of the gross income (not including the housing allowance itself) or actual housing allowance, whichever is lower (note that if the housing allowance is paid to the employee in cash, then the entire amount may be subject to PIT). Note that only the rental amount will be subject to this rule. Utilities, such as telephone, electricity or accommodation insurance, will be subject to PIT.
- **Airfare allowance:** Circular 111 provides that round trip airfare tickets once per year for an expatriate's home leave are not taxable. Note that the route must be between Vietnam and the country where he/she holds nationality or where his/her family lives. The supporting documents required include the labor contract and a copy of the ticket showing the price and the route.
- **Other benefits:** Under Circular 111, certain benefits provided to a specific employee will be taxable to such individual (i.e. golf membership, gym membership, car allowance). However, if the benefits are provided to all employees of the company, then such benefits are exempt from PIT.
- **Tuition fees:** Circular 111 states that tuition fees paid for the education of an expatriate's children (kindergarten to high school) in Vietnam shall be exempt from PIT. Supporting documents are also required, including labor contracts and the receipt of payment of the school fees.



Tax compliance

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 declarations 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 finalization 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.

Foreign Contractor Tax

Under Vietnamese tax laws, foreign business organizations (with or without a permanent establishment in Vietnam) and foreign business individuals (whether they are residents or non-residents of Vietnam) must pay the Foreign Contractor Tax if they have business activities in Vietnam or income derived from Vietnam as defined under Circular 103.

Income derived from Vietnam is defined as the income, in any form, of a foreign contractor or foreign subcontractor that is paid by a Vietnamese party irrespective of the location of the business establishment through which the foreign contractor or foreign subcontractor conducts its business activities. Generally, foreign companies and individuals without a legal presence in Vietnam are subject to FCT: (i) if the services are performed in Vietnam; or (ii) the income is derived from Vietnam.

The following table sets forth the FCT rates based on the foreign contractor's line of business. Note that FCT contains a Corporate Income Tax portion and a Value Added Tax portion.

VAT withholding rates under the FCT regime

| No. | Business lines | VAT withholding rates |
|-----|--|-----------------------|
| 1. | Services, machinery and equipment leasing business, insurance, and construction and assembly and installation where the tender did not include the supply of materials, machinery and equipment in the construction work | 5% |
| 2. | Production, transportation, services associated with supplies, construction and assembly and installation where the tender included the supply of materials, machinery and equipment in the construction work | 3% |
| 3. | Other business | 2% |

CIT withholding rates under the FCT regime

| No. | Business lines | CIT rates as a percentage (%) of taxable turnover |
|-----|---|---|
| 1. | Trading: distribution and supply of goods, raw materials, supplies, machinery and equipment associated with services in Vietnam (including the provision of goods under on spot import export; provision of goods under DDP, DAT, DAP of incoterms) | 1 |
| 2. | Services, lease of machinery and equipment, lease of drilling platform, insurance | 5 |
| 3. | Management services of hotels, restaurants, casinos | 10 |
| 4 | Lease of aircraft, aircraft engines, aircraft spare parts and sea- going vessels | 2 |
| 5 | Construction, installation | 2 |
| 6. | Other production or business activities, and transportation (including sea and air transportation) | 2 |
| 7. | Assignments [transfer] of securities, reinsurance to overseas, commission of transfer of reinsurance | 0.1 |
| 8. | Derivative financial services | 2 |
| 9. | Loan interest | 5 |
| 10. | Income from royalties | 10 |

Not subject to FCT

As a principle, no FCT applies with respect to: (i) services performed outside of the territory of Vietnam where the product or outcome is consumed outside of Vietnam, such as: repairing of means of transportation, machinery or equipment; advertising (except internet-based advertising); sales promotion; investment and trade

promotion overseas; broker commissions for sales overseas; and training overseas (except for online training) (per Circular 103, Article 2); and (ii) the supply of goods (including equipment and raw materials) at a foreign or Vietnamese border gate (when the Vietnam party would bear all the responsibility, cost and risk relating to the receipt and transportation of the goods from that point) and without any services being performed or used in Vietnam.

Note furthermore that the tax imposts of the FCT (the CIT component) may be exempt under a DTA to which Vietnam is a signatory.

Methods to pay FCT liability

Foreign contractors declare and pay FCT by one of the following three methods:

- **The Withholding Method** - the Vietnamese contracting party withholds the FCT when paying the foreign contractor;
- **The VAS Method** - the foreign contractor registers under the Vietnamese accounting system for the direct payment of taxes to the tax office; or
- **The Hybrid Method** - the foreign contractor registers only for VAT. It is a hybrid, with elements of both the VAS Method and the Withholding Method.



The most commonly used is the Withholding Method. Under this method, the foreign contractor is not required to register under VAS or to pay FCT directly to the tax office. The Vietnamese contracting party is responsible to withhold the FCT – both the VAT and CIT portions – from payments made to the foreign contractor, and pay it to the tax office on the foreign contractor’s behalf. The added value used for VAT calculations and the CIT rate are fixed rates based on the nature of the service.

Applying the VAS Method is similar to paying tax as an enterprise with a taxable presence in most respects. The taxpayer will be expected to comply with relatively strict provisions on the deduction of head office expenses and the non-deductibility of invoices that do not comply with all formal requirements.

Under the Hybrid Method, the tax authorities grant a VAT number to the foreign contractor. The foreign contractor would then be allowed to offset input VAT (charged by local suppliers, such as subcontractors), but would still have to pay CIT by means of withholding.



Special Sales Tax

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

Taxable Price

The taxable price of domestically produced goods sold by a manufacturer/imported goods sold by an importer is the selling price exclusive of SST and environment protection fee. Where the selling price is not considered as in line with the ordinary market price, the tax authorities may seek to deem the tax.

The taxable price of imported goods upon importation is the dutiable price plus import duties.

Where manufactured or imported goods are subsequently sold by a trading entity which has the following relationship with the manufacturer or importer: i) parent – subsidiary; ii) same parent; or iii) related party (one owns directly or indirectly at least 20% of the other), the SST taxable price must not be less than 93% of the average selling price charged by the dependent/related trading entity selling to independent/non-related trading entities or customers. This is applicable to both single level and multi-level dependent/related trading entities.

Tax Credits

Taxpayers producing SST liable goods from SST liable raw materials are entitled to claim a credit for the SST amount paid on raw materials imported or purchased from domestic manufacturers.

Where taxpayers pay SST at both the import and selling stages, the SST paid at importation will be creditable against SST paid at the selling stage.

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.

The SST rates are as follows:

| Products / services | Rate |
|---|----------|
| Cigar/Cigarettes | 75 |
| Spirit/Wine | |
| a) Spirit/Wine with ABV $\geq 20^\circ$ | 65 |
| b) Spirit/Wine with ABV $< 20^\circ$ | 35 |
| Beer | 65 |
| Automobiles having less than 24 seats | |
| - From 1 January 2018 | 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 |

Natural Resources Tax (NRT)

Natural resources tax is payable by industries exploiting Vietnam's natural resources including petroleum, minerals, natural gas, forest products, natural seafood, natural bird's nests, and natural water. Natural water used for agriculture, forestry, fisheries, salt industries and sea water for cooling purposes may be exempt from NRT provided that certain conditions are satisfied.

The tax rates vary depending on the natural resource being exploited, ranging from 1% to 40%, and are applied to the production output at a specified taxable value per unit. Various methods are available for the calculation of the taxable value of the resources, including cases where the commercial value of the resources cannot be determined.

Crude oil, natural gas and coal gas are taxed at progressive tax rates depending on the daily average production output.



Non-agriculture Land Use Tax

Foreign owned companies are generally only allowed to lease land use right in Vietnam to conduct investment project.

Hence, they generally pay rental fees for land use rights. The range of rates is wide depending upon the location, infrastructure and the industrial sector in which the business is operating.

In addition, owners of land use rights or the ones who are using the land use right have to pay land use tax under the law on non-agricultural land use tax.

The tax is charged on the specific land area used based on the prescribed price per square meter and progressive tax rates ranging from 0.03% to 0.15%.

Environmental protection tax

Environment protection tax is applicable to the production and importation of certain goods deemed detrimental to the environment, the most significant of which are petroleum and coal. The rates are as follows:

| No. | Goods | Unit | Tax rate (VND) |
|-----|------------------------------|----------|-----------------|
| 1. | Petrol, diesel, grease, etc. | liter/kg | 500 - 4,000 |
| 2. | Coal | ton | 15,000 - 30,000 |
| 3. | HCFCs | kg | 5,000 |
| 4. | Plastic bags (*) | kg | 50,000 |
| 5. | Restricted use chemicals | kg | 500 - 1,000 |

() Excluding plastic bags used for packaging or those which are environmentally friendly.*

Import and Export Tax

Rates

Import and export duty rates are subject to frequent changes and it is always important to check the latest regulations at the time.

Import duty rates are classified into 3 categories:

- ordinary rates,
- preferential rates and
- special preferential rates.

Preferential rates are applicable to imported goods from countries that have Most Favoured Nation (MFN) status with Vietnam. The MFN rates are in accordance with Vietnam's WTO commitments and are applicable to goods imported from other member countries of the WTO.

Special preferential rates are applicable to imported goods from countries that have a special preferential trade agreement with Vietnam. Currently effective free trade agreements to which Vietnam is a party include FTAs between ASEAN member states, between ASEAN members and Japan, ASEAN and China, ASEAN and India, ASEAN and Korea, ASEAN and Australia - New Zealand, Vietnam and Japan, Vietnam and Chile, Vietnam and Korea, Vietnam and Eurasian Economic Union, Vietnam and the Customs Union of Russia, Belarus, Kazakhstan.

To be eligible for preferential rates or special preferential rates, the imported goods must be accompanied by an appropriate Certificate of Origin. When goods are sourced from non-preferential treatment/non-favoured countries, the ordinary rate (being the MFN rate with a 50% surcharge) is imposed.

Calculations

In principle Vietnam follows the WTO Valuation Agreement with certain variations. The dutiable value of imported goods is typically based on the transaction value (i.e. the price paid or payable for the imported goods, and where appropriate, adjusted for certain

dutiable or non-dutiable elements). Where the transaction value is not applied, alternative methodologies for the calculation of the dutiable value will be used.

Special Sales Tax (SST) applies to some products in addition to import duties. VAT will also be applied on imported goods (unless exempt under the VAT regulations).

Exemptions

Import duty exemptions are provided for projects which are classified as encouraged sectors and other goods imported in certain circumstances. Categories of import duty exemption include:

- Machinery & equipment, specialized means of transportation and construction materials (which cannot be produced in Vietnam) comprising the fixed assets of encouraged investment projects; Machinery, equipment, specialized means of transportation, materials (which cannot be produced in Vietnam), office equipment imported for use in oil and gas activities;
- Materials, supplies and components imported for the production of exported goods;
- Raw materials, supplies, components imported for processing of exports;
- Goods manufactured, processed, recycled, assembled in a free trade zone without using imported raw materials or components when they are imported into the domestic market;
- Materials, supplies and components which cannot be domestically produced and which are imported for the production of certain encouraged projects;
- Goods temporarily imported or exported for the purpose of warranty, repair, and replacement.

Refunds

There are various cases where a refund of import duties is possible, including for:

- Goods for which import duties have been paid but which are not

actually physically imported;

- Imported raw materials that are not used and which must be re-exported;
- Imported raw materials that were imported for the production of products for the domestic market but are later used for the processing of goods for export under processing contracts with foreign parties;

Export Duties

Export duties are charged only on a few items, basically natural resources such as sand, chalk, marble, granite, ore, crude oil, forest products, and scrap metal. Rates range from 0% to 40%. The tax base for computation of export duties is the FOB price, i.e. the selling price at the port of departure as stated in the contract, excluding freight and insurance costs.

Customs audit

The customs office may perform post customs audits either at their offices or at the taxpayers' premises. These inspections normally focus on issues including HS code classification, valuation, compliance with export/toll manufacturing duty deferral/exemption schemes and certificate of origin.



Accounting and Auditing Requirements

Accounting records are generally required to be maintained in VND. Entities that receive and pay mainly in foreign currency can select a foreign currency to be used for their accounting records and financial statements provided that they meet all stipulated requirements.

Accounting records are required to be maintained in Vietnamese language, but this can be combined with a commonly used foreign language. Accounting vouchers and accounting books that are stored on electronic equipment are not required to be printed out unless requested by the authorities. At the end of a financial year, the entity must perform a physical count of its fixed assets, cash and inventories.

Companies operating in Vietnam are required to comply with the Vietnam Accounting System which applies the historical cost convention. The tax authorities treat VAS non-compliance as a basis for tax reassessment and imposition of penalties, including withdrawal of CIT incentives, disallowance of expenses for CIT purposes and denial of input VAT credits/refunds.

The annual financial statements of all foreign-invested business entities, financial institutions, insurance companies and public interest entities must be audited by an independent auditing company operating in Vietnam. Audited annual financial statements must be completed within 90 days from the end of the financial year. These financial statements should be filed with the applicable licensing body, Ministry of Finance, local tax authority, Department of Statistics and certain other authorities.

Double Taxation Agreements

Vietnam has concluded over 80 tax treaties:

| No | Recipient | Effective |
|----|-------------------|--|
| 1 | Algeria | Not yet at time of this booklet issued |
| 2 | Australia | - |
| 3 | Austria | |
| 4 | Azerbaijan | |
| 5 | Bangladesh | |
| 6 | Belarus | |
| 7 | Belgium | |
| 8 | Brunei Darussalam | |
| 9 | Bulgaria | |
| 10 | Cambodia | |
| 11 | Canada | |
| 12 | China | |
| 13 | Cuba | |
| 14 | Czech Republic | |
| 15 | Croatia | Not yet at time of this booklet issued |
| 16 | Denmark | |
| 17 | Eastern Uruguay | |
| 18 | Egypt | Not yet at time of this booklet issued |
| 19 | Estonia | |
| 20 | Finland | |
| 21 | France | |
| 22 | Germany | |
| 23 | Hong Kong | |
| 24 | Hungary | |
| 25 | Iceland | |
| 26 | India | |

| No | Recipient | Effective |
|----|---------------|--|
| 27 | Indonesia | |
| 28 | Iran | |
| 29 | Ireland | |
| 30 | Israel | |
| 31 | Italy | |
| 32 | Japan | |
| 33 | Kazakhstan | |
| 34 | Korea (South) | |
| 35 | Korea (North) | |
| 36 | Kuwait | |
| 37 | Laos | |
| 38 | Latvia | |
| 39 | Luxembourg | |
| 40 | Macedonia | Not yet at time of this booklet issued |
| 41 | Malaysia | |
| 42 | Manta | |
| 43 | Mongolia | |
| 44 | Macao | |
| 45 | Morocco | |
| 46 | Mozambique | |
| 47 | Myanmar | |
| 48 | Netherlands | |
| 49 | New Zealand | |
| 50 | Norway | |
| 51 | Oman | |
| 52 | Pakistan | |
| 53 | Panama | |
| 54 | Palestine | |
| 55 | Philippines | |

| No | Recipient | Effective |
|----|----------------|--|
| 56 | Poland | |
| 57 | Portugal | |
| 58 | Qatar | |
| 59 | Romania | |
| 60 | Russia | |
| 61 | San Marino | |
| 62 | Saudi Arabia | |
| 63 | Serbia | |
| 64 | Seychelles | |
| 65 | Singapore | |
| 66 | Slovakia | |
| 67 | Spain | |
| 68 | Sri Lanka | |
| 69 | Sweden | |
| 70 | Switzerland | |
| 71 | Taiwan | |
| 72 | Thailand | |
| 73 | Tunisia | |
| 74 | Turkey | |
| 75 | UAE | |
| 76 | Ukraine | |
| 77 | United Kingdom | |
| 78 | United States | Not yet at time of this booklet issued |
| 79 | Uruguay | |
| 80 | Uzbekistan | |
| 81 | Venezuela | |

Social, Health and Unemployment Insurance Contributions

Social insurance, health insurance and unemployment insurance are applicable to both Vietnamese and foreign individuals who are employed under a labor contract.

Under the compulsory social insurance, compulsory health insurance, and unemployment insurance regimes, both the employer and the employee are required to contribute to the insurance fund. Their contributions are based on the entire contracted salary that an employee receives. The government also contributes and provides additional funds. The details of contribution rates are as follows:

| | SI | HI | UI | Total |
|----------|-------|------|----|-------|
| Employee | 8% | 1.5% | 1% | 10.5% |
| Employer | 17.5% | 3% | 1% | 21.5% |

Nevertheless, the Law on Social Insurance sets a ceiling for the salary on which contributions will be calculated, and no contribution need be made beyond this ceiling.

If an employee's salary is more than 20 times higher than the Government's basic wage, then for the purposes of calculating social insurance contributions, the employee's salary will be deemed to be fixed at 20 times the basic wage.

Therefore, the maximum social insurance contribution will depend on the minimum wage fixed by the Government from time to time. The maximum salary for the purpose of unemployment insurance contribution is 20 times that of regional minimum wage.

Basic wage

Basic wage applies to employees who work for non-foreign-invested enterprises such as state agencies, state-owned enterprises, and other domestic enterprises. The current basic monthly wage is VND 1,800,000 per month (applicable from 1 July 2023).

Minimum wage

The minimum wage is the lowest monthly wage that may be paid to an employee hired to perform a basic job that does not require training. The minimum wage is fixed from time to time by the Government.

There are three types of minimum wage. The minimum wage is computed on a monthly, daily, and hourly basis, and it is defined in accordance with regional areas and industries.

“**Regional minimum wage**” applies to employees who work for enterprises with foreign-invested capital and other foreign organizations and is dependent on the classification of the enterprise. The regional minimum wage system is divided into four levels:

- **Level 1:** VND 4,680,000 per month for employees who work for enterprises in urban districts of Hanoi, urban and rural districts of Hai Phong, urban and rural districts of Ho Chi Minh City and some designated cities and districts of Dong Nai, Binh Duong, and Ba Ria-Vung Tau provinces.
- **Level 2:** VND 4,160,000 per month for employees who work for enterprises in various designated cities and districts of provinces and in centrally-run cities.
- **Level 3:** VND 3,640,000 per month for employees who work for enterprises in cities and districts of other provinces.
- **Level 4:** VND 3,250,000 per month for employees who work for enterprises in other locations.

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

Employees and employers are also encouraged to participate in voluntary pension schemes. Tax deductions for the contributions are allowed for employees (for PIT purposes) and employers (for CIT purposes), subject to a cap.

Labour compliance for expatriates working in Vietnam

General

Under the law, an expatriate can enter and work in Vietnam in one of the following ways:

- Working under a labor contract: The VN company/ FC will hire and sign a labor contract directly with the employee;
- Being reassigned within a group (internal movement): this is the assignment of expatriate employees who are managers, executive officers, experts, and technicians of a foreign enterprise that has established a commercial presence in Vietnam. These are temporary assignments done within the same enterprise group that has a commercial presence in Vietnam, and the employee must have been employed by the foreign enterprise for at least 12 months;
- Being employed as managers, executive officers, experts, technicians; or
- Participating in the execution of contracts and projects in Vietnam

Employment registration for the VN Company

At least 30 days prior to the moment when the VN Company estimates its required recruitment of expatriate employees, it must provide a report explaining the reasons for needing to use expatriate employees. The report must include: job titles, number needed, professional qualifications and experience needed, salary rate, and working time. The report must be submitted directly to the provincial Department of Labor (“**DOL**”), Invalids and Social Affairs where the head office is located.

Within 15 working days after receiving the report, the provincial DOL will notify the VN Company of whether it will allow the use of expatriate employees. The approval letter is one of the supporting documents that will be needed when applying for a work permit for the expatriate employees.

Employment notification requirement for the FC on a project basis

Before hiring foreign workers, the FC must declare the number, qualifications, professional competence and experience of foreign workers to be mobilized to implement a contract in Vietnam.

Additionally, the FC must send a request to the Chairperson of the provincial People's Committee where the FC implements the contract to first attempt to recruit Vietnamese workers for the job positions for which the FC is contemplating recruiting foreign workers. (Note that the project owner's confirmation of the recruitment request must be included.)

If the FC needs to adjust and/or supplement the declared number of employees, the project owner must confirm the FC's adjustment plan and additional labor demand.



The Chairperson of the provincial People's Committee will then direct local agencies and organizations to introduce and supply Vietnamese workers for the FC. Within two months from the date of receipt of a request to recruit at least 500 Vietnamese employees or one month from the date of receipt of a request to recruit from 100 Vietnamese employees to less than 500 employees or 15 days from the date of receipt of a request to recruit less than 100 Vietnamese employees, if it is impossible to introduce or supply Vietnamese workers to the FC, the Chairperson of the provincial People's Committee will consider and decide whether to allow the FC to recruit foreign workers for those positions for which it could not recruit Vietnamese employees.

Work permit for expatriates working in Vietnam

Once approval to hire expatriate employees is obtained from the local authorities, the employer should execute employment agreements and apply for work permits or work permit exemption certificates.

Under the law, the general conditions for expatriate employees working in Vietnam to be able to obtain a work permit include:

- Having full capacity for civil acts;
- Having the qualifications, skills and health to meet the job requirements;
- Never having been convicted of a crime under the laws of Vietnam or another country.

Cases for obtaining a work permit exemption certificate

Under the law, an expatriate employee working in Vietnam will be exempt from having to obtain a work permit in the following situations:

- As a capital contributing member or owners of a limited liability company
- As a member of the Board of Management of a Joint Stock Company

- Coming to Vietnam to provide services for a period of less than three months
- Coming to Vietnam for a period of less than three months to handle a problem, technical situation or complex technological issue that could affect or threaten to affect the production and business, that the experts currently in Vietnam cannot handle
- Expatriate employees coming to Vietnam to work as experts, managers, executive directors or technical employees for a period of less than 30 days, and for a cumulative total of no more than 90 days in one year
- Workers that are reassigned within enterprises engaged in the 11 service industries in the commitment on services between Vietnam and the WTO: business, communications, construction, distribution, education, environment, finance, health, tourism, entertainment, and transportation
- Workers who enter Vietnam to provide technical advisory services or perform other tasks serving the research, development, appraisal, assessment, management, and execution of programs and projects funded by ODA according to the International Agreements on ODA between the competent authorities of Vietnam and other countries

Although a work permit is not needed, the employees must nevertheless obtain an exemption certificate from the local labor authorities.

Work permit exemption applicable for the VN Company

A work permit is not required when an employee is internally moved within enterprises that are engaged in the 11 service industries in the commitment on services between Vietnam and the WTO.

The law classifies two categories of internal movement: (i) internal movement of expatriate employees as managers, executives, experts; and (ii) internal movement of expatriate employees as technicians.

Managers and executives are those who primarily direct the

management of the foreign enterprises which have established a commercial presence in Vietnam, receiving only general supervision or direction from the board of directors or stockholders of the business or their equivalent, and include those who direct the establishment or a department or subdivision of the establishment, supervise and control the work of other supervisory, professional or managerial employees, have the authority personally to hire and fire or recommend hiring, firing or other personnel actions, and who do not directly perform tasks concerning the actual supply of the services of the establishment.

Work permit exemption applicable for the foreign contractor (FC)

Expatriate employees working for the FC under a project can only be exempted from requiring a work permit under the scenario of coming to Vietnam for a period of less than three months to handle a problem, technical situation or complex technological issue that could affect or threaten to affect the production and business that the experts currently in Vietnam cannot handle. The exemption under the WTO commitment does not apply, as one of the conditions of this exemption type is that the foreign enterprise has established a commercial presence in the territory of Vietnam. A commercial presence is defined as including:

- Business cooperation contract
- Joint-venture enterprise, 100% foreign-capital enterprises
- Representative office

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