

International Tax Vietnam Highlights 2018



Investment basics:

Currency – Vietnam Dong (VND)

Foreign exchange control – VND must be used in transactions between Vietnamese entities and individuals, unless specifically allowed under the foreign exchange control regulations. A foreign currency can be used as the functional currency for accounting and reporting purposes, subject to certain conditions. Both residents and nonresidents can hold bank accounts in any currency. Foreign currency may be remitted overseas, although registration and/or tax requirements may need to be met.

Accounting principles/financial statements – Vietnamese Accounting Standards and the Vietnamese accounting system apply. Statutory financial statements must be prepared, audited and submitted annually, except for listed companies whose financial statements are required to be audited and submitted on a semi-annual basis.

Principal business entities – These are the joint stock company, limited liability company and private enterprise. Branches of foreign corporations are limited to certain industries.

Corporate taxation:

Residence – Residence is not defined, but a corporation generally is considered to be resident if it is incorporated in Vietnam.

Basis – Residents are taxed on worldwide income; nonresidents are taxed only on Vietnamese-source income. Foreign-source income derived by residents is subject to corporation tax in the same way as Vietnamese-source income.

Taxable income – Tax is imposed on a company's

profits, which include the profits of affiliates and branches (dependent units). Taxable revenue includes income from the sale of goods; the provision of services; the leasing or sale of assets; the transfer of property, shares or a business; joint venture operations with other economic entities; and financial operations.

Taxation of dividends – Dividends paid by a company in Vietnam to its corporate shareholders are not subject to tax.

Capital gains – There is no separate capital gains tax; gains are taxed at the standard corporate tax rate of 20%. The transfer value is based on the actual price in the transfer contract, although a deemed fair market value will be used if no contract price is available or if the price stated in the contract is deemed not to be on arm's length terms.

Losses – Losses may be carried forward to offset taxable income for up to five consecutive years after the year in which the losses are incurred. The carryback of losses is not permitted. Losses from transfers of real property and investment projects may be offset against profits from normal business operations in the same tax period. Group loss relief is not allowed.

Rate – The standard corporate rate is 20%. The rate for enterprises operating in the oil and gas and natural resource sectors ranges from 32% to 50%, depending on the project.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax paid may be credited against Vietnamese tax, but must be determined based on pretax income. The credit is limited to the amount of Vietnamese tax payable on the foreign income.

Participation exemption – See under “Taxation of dividends.”

Holding company regime – No

Incentives – Preferential tax rates of 10% (for 15 years) and 17% (for 10 years) are available for taxpayers engaged in encouraged investment projects or in socio-economically disadvantaged locations, respectively, as stipulated by the government. A tax holiday of up to four years and a 50% tax reduction for up to nine years are available from the first profit-making year or the fourth revenue-generation year, whichever comes first. Current taxpayers with new projects also are entitled to tax incentives, subject to certain conditions.

Withholding tax:

Dividends – No tax is imposed on dividends remitted overseas unless paid to an individual, where a 5% withholding tax is imposed.

Interest – Interest paid to a nonresident is subject to a 5% withholding tax, unless the rate is reduced under a tax treaty.

Royalties – Royalties paid to a nonresident are subject to a 10% withholding tax, unless the rate is reduced under a tax treaty. Income derived by a nonresident from the transfer of a right to use a trademark is also subject to a 5% value added tax (VAT).

Technical service fees – A withholding tax of 5% (corporate tax) and 5% (VAT) generally applies to technical service fees paid to a nonresident. A corporate tax exemption may apply under a tax treaty.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – The municipal authorities levy tax (e.g. land rental tax, land use fees, etc.) on the use of real property.

Social security – The employer is required to make social insurance (SI), health insurance (HI), unemployment insurance (UI) and labor accident and occupational disease insurance contributions of 17%, 3%, 1% and 0.5%, respectively.

Stamp duty – A stamp duty of 0.5% to 15% is levied on certain types of assets, including real property.

Transfer tax – No

Other – Foreign contractor withholding tax is imposed on income from the provision of goods and services from overseas organizations (except for pure trading transactions with a delivery point to the border of

Vietnam), which comprises corporate tax and VAT at a total combined rate ranging from 0.1% to 15%.

Anti-avoidance rules:

Transfer pricing – Vietnam has transfer pricing rules that generally follow the OECD guidelines. The following methodologies are permitted: comparable uncontrolled price, resale price, cost plus, comparable profit and profit split, although no priority of methods exists. The taxpayer must establish that it is using the “best” method appropriate under the circumstances. Contemporaneous documentation is required. The tax authorities can adjust profits if the pricing strategy is found not to be at arm’s length. Also, the Vietnamese transfer pricing rules incorporate the “substance over form” principle, leading to certain types of related-party expenses being regulated as nondeductible for corporate income tax purposes. Advance pricing agreements are possible.

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Compliance for corporations:

Tax year – The tax year is the fiscal year. A company must notify the tax authorities if its fiscal year differs from the calendar year and, in such a case, only a quarter-end fiscal year is allowed.

Consolidated returns – Consolidated returns are not permitted; each company with independent legal status is required to file a separate return.

Filing requirements – Provisional quarterly corporate income tax returns are not required, but a company is required to make quarterly provisional corporate income tax payments based on estimates. An annual declaration/filing must be made within 90 days after the fiscal year-end date. Any shortfall exceeding 20% between the provisional corporate income tax payments and the annual corporate income tax liability is subject to a late payment penalty.

Penalties – Penalties apply for failure to file, late filing or the filing of a fraudulent return. Taxpayers are subject to an extra 0.03% penalty per day of late payment, 20% on underreported amounts and more stringent penalties for evasion (up to 300%).

Rulings – A taxpayer can request a tax ruling from the local or the national tax authorities to clarify its specific tax concerns.

Personal taxation:

Basis – Vietnamese residents are taxed on their worldwide income; nonresidents are taxed only on

Vietnam-sourced income.

Residence – An individual is resident if he/she: (i) spends 183 days or more in the aggregate in a 12-month period in Vietnam, starting from the date the individual arrives in Vietnam; (ii) maintains a residence in Vietnam; or (iii) has leased a residence for 183 days or more in a tax year, unless he/she is present in Vietnam for less than 183 days and can prove residence in another country.

Filing status – Individuals must file separate returns; joint filing is not permitted.

Taxable income – Employment income, including most employment benefits (whether in cash or in kind), is fully taxable. Dividends, interest (except for interest on bank deposits, life insurance and government bonds), capital gains derived from securities trading, private business income with annual revenue exceeding VND 100 million and other income from franchising, inheritance, the transfer of land use rights and gifts/winnings or prizes (excluding casino winnings) also are taxable. Profits derived from the carrying on of a trade or profession generally are taxed in the same way as profits derived by companies.

Capital gains – Capital gains derived from the sale of shares and the transfer of immovable property are taxable.

Deductions and allowances – Subject to certain restrictions, tax deductions are granted for compulsory social security contributions, i.e. the SI, HI and UI. Severance allowances, redundancy compensation and “non-accumulative” insurance premiums are not taxable. Other tax deductions include a personal deduction, a dependent deduction, a deduction for voluntary retirement fund contributions and charitable contributions.

Rates – For employment income, progressive rates ranging from 5% to 35% apply to residents, while nonresidents are subject to a flat rate of 20%.

Income from sources other than employment is taxed at rates ranging from 0.1% to 20%, which apply to both residents and nonresidents. Capital gains derived from a capital assignment are subject to a 20% tax on gains. Gains from securities trading are subject to 0.1% tax on the gross sales proceeds.

Other taxes on individuals:

Capital duty – No

Stamp duty – A stamp duty at rates of 0.5% to 2% applies on the transfer of property.

Capital acquisitions tax – No

Real property tax – The municipal authorities levy a tax on real estate.

Inheritance/estate tax – Inheritances and gifts above VND 10 million are subject to income tax at 10%.

Net wealth/net worth tax – No

Social security – From 1 January 2018, Vietnamese employees are required to make SI, HI and UI contributions at rates of 8%, 1.5% and 1% of the employee’s salary, allowances and other additional income, respectively. Foreign employees are subject to SI and HI only. Employees are not required to make labor accident and occupational disease insurance contributions.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax on employment income is withheld by the employer and remitted to the tax authorities. An individual must file a tax return and make a final tax payment by 30 March in the year following the assessment year.

Penalties – Taxpayers are subject to an extra 0.03% penalty per day for the late payment of tax, 20% on underreported amounts and more stringent penalties for tax evasion (up to 300%).

Value added tax:

Taxable transactions – VAT is levied on most common goods and services, while Special Sales Tax (SST) is levied only on certain types of goods and services.

Rates – Rates are 0%, 5% and 10% for VAT, and from 5% to 150% for SST.

Registration – All organizations and individuals carrying on the production or trading of taxable goods and services in Vietnam must register for VAT purposes. Each branch or outlet of an enterprise must register separately and declare tax on its own activities. Transfers of goods between branches may be subject to VAT. Registration for tax payment is required within 10 days of the date a corporation is established.

Filing and payment – Monthly filing and payment of outstanding VAT must be made by the 20th day of the following month. Quarterly VAT filing and payment is allowed for certain taxpayers, which are due by the 30th day of the following quarter.

Source of tax law: Law on Tax Administration, Law on Corporate Income Tax, Law on Personal Income Tax, Law

on Value Added Tax, Law on Special Sales Tax, Social and Health Insurance Laws

Tax treaties: Vietnam has concluded over 70 income tax treaties.

Tax authorities: Provincial tax departments; General Department of Taxation; Ministry of Finance

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