



Taxation and Investment in Mongolia 2018

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1. Investment climate

1.1. Business environment

Mongolia is a centralised state and not a federation. Mongolia is a parliamentary democracy. The President is the head of state. Executive power lies with the Government of Mongolia, headed by the Prime Minister. The Prime Minister is usually the leader of the political party holding majority of the seats in the Parliament of Mongolia. The legislature has a single chamber consisting of 76 members elected by the electorate.

Mongolia follows the Romano-Germanic civil law system. The Supreme Court is the final court of appeal for all civil, criminal and administrative cases.

Mongolia is party to numerous international organisations, conventions and treaties including (but not limited to) WTO.

Mongolia is an emerging economy. Mongolia's economy has been growing at a fast pace in the last 20 years due to the increase in foreign direct investments into Mongolia in the mining, construction, financial and service sectors. Mongolia's GDP growth was 12.3% in 2012 and 11.7% in 2013.

Mongolia has some of the lowest tax rates in the world and Mongolia's tax regime has been consistent and stable in the last 20 years.

Price controls

Mongolia is a liberal market economy in which prices are determined by supply and demand. The government regulates prices in certain industries (e.g. energy and public transportation).

1.2. Currency and Currency Controls

The currency in Mongolia is the Togrog (MNT). The historical exchange rate against the US dollar has been USD1.00 = MNT1,300. In recent years, however, the exchange rate has fallen to MNT2,400.

In Mongolia, transactions must be done in MNT. Cross-border transactions can be done in any currency.

There is no requirement for obtaining any approval to repatriate or transfer funds out of Mongolia.

1.3. Banking and financing

The Central Bank of Mongolia (or Mongolbank) is the central bank of Mongolia that regulates the commercial banks and investment banks and sets the monetary policy.

The Financial Regulatory Commission regulates other financial institutions and listed and public companies.

Ulaanbaatar is the main financial centre.

1.4. Foreign investment

Since becoming a market economy in 1990, Mongolia has been attracting foreign direct investment (FDI) with a steady growth of investment year-by-year. The peak of FDI reached in 2012 and 2013. FDI slowed down between 2014 and 2016 due to the price of commodities. FDI has seen an increase from 2017.

Foreign investors can make investments into any industry. The Investments Act 2013 encourages investments by way of offering tax stabilisation or investment agreements that guarantee the stabilisation of taxes.

The only form of restriction applies to the mining, banking and financing, print, media and telecommunications sectors. In these sectors, the acquisition by a foreign state-owned enterprise of more than 33% of the issued shares is subject to the government's approval.

Investments made by way of (i) incorporation of a business enterprise with or without other investors; (ii) purchase of shares, debentures and other types of security; (iii) merging or consolidating companies; (iv) entry into concession, production-sharing, marketing or management agreements; and (v) financial lease or franchising.

2. Setting up a business in Mongolia

2.1. Forms of business entity

Business organisations can take one of the following forms: (i) private limited company; (ii) public limited company; (iii) partnership.

The Companies Act 2011 recognises companies limited by shares only. The Companies Act does not recognise unlimited companies or companies limited by guarantee.

The private limited company restricts the transfer of its shares and limits the number of members to 50 at the time of incorporation.

The public limited company is divided into (i) open; and (ii) closed. Open companies must be registered with a recognised stock exchange and can invite the public to subscribe to shares. Closed companies must be registered with a securities depository and can trade its shares off-exchange (over the counter).

Partnerships are recognised as legal persons separate from its members and include (i) general partnership where all the members are personally liable for the partnerships' debts; (ii) limited partnerships where some of the members are personally liable for the partnerships' debts; and (iii) limited liability partnerships.

The common vehicle used in Mongolia is the private limited company due to the limited liability of its members. The most popular choice for foreign investors is also the private limited company.

2.2. Formalities for setting up a company in Mongolia

Companies incorporated under the laws of Mongolia must be registered with the Legal Entity Registration Office (or Registrar). Different rules apply for registration of foreign investment companies and companies with local investment.

Registration application (Form UB-12) of an FIC must be accompanied by, among other things, the articles of association, written shareholders agreement (if there is more than one member), resolution to incorporate the FIC, proof of investment and the payment of a service fee. After the submission of the application, the Registrar will issue the certificate of incorporation within 3-5 business days.

2.3. Requirements for public and private limited companies

Capital: In general, there is no minimum required capital for companies except for:

- (i) private limited companies with 25 per cent or more ownership by foreign investors. Private limited companies with 25 per cent or more foreign investment are called "foreign investment companies" (hereinafter referred to as "**FIC**") and each investor (either local or foreign) must

contribute no less than USD100,000 to the company's share capital in proportion to their shareholding; and

- (ii) companies that carry on regulated businesses including banking, insurance, underwriting, broker, dealer, securities clearing or securities depository businesses. Banks are regulated by the Central Bank and the other regulated businesses are regulated by the Financial Regulatory Commission, who sets the minimum required capital.

Founders and shareholders: The shareholders meeting is the highest governing organ of a company. Companies may carry on their business with just one member. There are no nationality or residence requirements.

Management: Mongolia's company law is significantly different with respect to management as compared to common law countries. There are offices called board of directors and chief executive officer (sometimes called an executive director). Public limited companies must have a board of directors of at least nine directors and a chief executive officer. The directors are elected by a cumulative voting method. Private limited companies do not need to have a board of directors but if they do have a board, the minimum number of directors is one. Unless otherwise specified in the articles, nominees with most number of votes are elected as directors. Private limited companies must have a chief executive officer. There are no nationality or residence requirements for the management personnel and no qualification requirements.

Types of share and securities: Recognised shares include ordinary and preferred. Ordinary shares must be issued. Share warrants entitling the bearer to the shares specified in the warrant may be issued. Debentures that create a charge on the assets of the company may be issued.

Fee: The fee payable to the Registrar for incorporation of a FIC is MNT750,000 and fee for registration of a company with local investment is MNT44,000.

Control: Unless otherwise specified in the law or the articles, most ordinary resolutions are adopted by a majority (50%+1) vote. Other resolutions including changing the articles, amalgamation merger or division, splitting the shares, exchanging the debts of the company for shares or winding up the company require an overwhelming majority (66.6%).

2.4. Mergers and acquisition

Acquisition of 20 per cent or more of the ordinary shares of a competitor is subject to the prior approval of the Fair Competition and Consumer Protection Agency ("**FCCPA**"). In the event a company that has a dominant position in the market merges with another entity, the merger is also subject to the prior approval of the FCCPA. Decisions of FCCPA are issued within 30 days.

2.5. Accounting, filing and auditing requirements

The Accounting Act 2015 requires businesses to follow one of three accounting standards: international financial reporting standard (IFRS), IFRS for small and medium-sized entities and International Public Sector Accounting Standards.

Most businesses must follow IFRS including FIC, companies who have applied for stock exchange listing, banks, financial services firms, mining companies and oil companies.

Business that follow IFRS must file their financial statements on a semi-annual basis. All filings are done electronically.

Businesses that follow IFRS, FICs, companies who prepare consolidated financial statements and companies who are subject to reorganization (including mergers, amalgamations and division) or liquidation must be audited by independent audit firms.

3. Business taxation

3.1. Overview

The sources of tax laws of Mongolia include legislation enacted by the Parliament of Mongolia, regulations, guidelines and methodologies adopted by the tax authority or the Ministry of Finance and the international tax agreements of Mongolia.

The main source of business taxation is the Corporate Income Tax Act of 2006 (the "**CIT Act**"). Under the CIT Act, companies, partnerships, cooperatives and central or local government owned enterprises are taxable persons.

Taxpayers are categorised as (i) resident; or (ii) non-resident. A company incorporated in Mongolia or a foreign company whose central place of management and control is in Mongolia is a Mongolia-resident company.

A Mongolia-resident company is subject to corporate income tax on its worldwide profits. Credits are given for taxes paid in a country that has a double tax agreement with Mongolia.

A non-resident taxpayer is a foreign company that carries on business in Mongolia through its permanent establishment or is otherwise earning income from Mongolian sources. A non-resident taxpayer is subject to tax only on its Mongolian-source income.

3.2. Taxable income and rates

The various sources of income include:

- Trading income, which includes:
 - Main or auxiliary trading income
 - Income derived from the sale of rights
 - Sale of shares and securities
 - Winnings from gambling and raffle
 - Sale or renting of books and visual media
 - Acceptance of goods and services without consideration
 - Sale of intangible assets
 - Technical, management or consulting services
 - Default interest and compensation received for non-performance of contractual obligations
 - Gain realised from foreign currency exchange rate
- Property income, which includes:
 - Income derived from renting movable and immovable property
 - Royalties
 - Dividend
 - Interest
- Property sale income, which includes:
 - Immovable property sale
 - Movable property sale.

The main rate of corporate income tax is 10% on taxable profits of up to MNT 3 billion and 25% on taxable profits in excess of MNT 3 billion. Corporate income tax is determined by deducting various expenses.

Different tax rates apply to the following incomes of resident taxpayers:

- Dividend – 10%
- Royalties – 10%
- Winnings from gambling or raffle – 40%
- Sale or renting of books and visual media – 40%
- Sale of immovable property – 2%
- Interest – 10%
- Sale of a right – 30%

From 1 January 2018, a new concept was introduced – ultimate owner, who is defined as a person who by virtue of ownership of shares, interest or voting rights, or through ownership of shares in a chain of other legal entities, controls the management or the assets of another legal entity and one who:

- (i) Holds the most number of voting rights;
- (ii) Holds the most number of shares or holds the highest market value of the shares;
- (iii) Other similar persons.

If the ultimate owner in a Mongolian company that holds a mineral exploration or mining licence, or land lease or land usage rights changes, then the transaction will be deemed as a sale of a right and be subject to 30% tax.

Non-residents are subject to 20% withholding tax on dividends, interest, royalties, finance lease, management fees, rental income and provision of services. The 20% withholding tax can be reduced under the applicable double tax agreement.

Profits attributable to a permanent establishment are subject to 20% withholding tax.

3.3. Deductions

Companies may deduct from their gross income various expenditures incurred including (but not limited to) purchase of raw materials, fuel, salary, health and social insurance contributions, loan interest, realised forex loss, marketing costs, subscription to newspapers and magazines, insurance premium and fair wear and tear.

3.4. Depreciation

Assets that have useful life of greater than 1 year may be depreciated as follows:

- Buildings and permanent fixtures – 40 years
- Machinery, technology and equipment – 10 years
- Computers and their parts and software – 3 years
- Intangible asset with no definitive useful life – 10 years
- Other fixed assets – 10 years

- Buildings and permanent fixtures within industrial or technological parks – 20 years
- Equipment, machinery and technologies within industrial or technological parks – 3 years

3.5. Losses

Resident taxpayers may carry forward their losses as follows:

- Companies in infrastructure or mining industries may carry forward 100% of their losses for 4-8 years
- Companies in other industries may carry forward up to 50% of their losses for 2 years.

3.6. Tax exempted income

Corporate income tax exemption applies to interest on bonds issued by the Government of Mongolia, provincial government or the Development Bank of Mongolia, income derived from the sale of the contractor's portion of oil and gas under the production-sharing contract, manufacture and sale of equipment and their parts used for small and medium sized enterprises, innovative products and services and the incomes of investment funds.

3.7. Tax reduction

Resident taxpayers that engage in production of wheat, potatoes, vegetables, milk, fruit and forage may enjoy 50% reduction of corporate income tax.

3.8. Double taxation relief

Mongolia has signed bilateral agreements for the avoidance of double taxation and fiscal evasion with the following countries:

Austria	France	Malaysia	Turkey
Belgium	Germany	North Korea	Ukraine
Belarus	Hungary	Poland	United Kingdom
Bulgaria	India	Russia	Vietnam
Canada	Indonesia	Singapore	
China	Kazakhstan	South Korea	
Czech Republic	Kyrgyz Republic	Switzerland	

In Mongolia, all of the above tax agreements were ratified and are in force. We cannot confirm whether all of the tax agreements were ratified and given effect in the other countries.

In order to enjoy reduced withholding tax, the Mongolian non-resident taxpayer must provide a copy of the Certificate of Residence issued by the relevant tax authority of the other contracting state to the Mongolian non-resident taxpayer. The non-resident must give the Certificate of Residence to the Mongolian resident taxpayer who should perform the tax withholding.

3.9. Transfer pricing

The transfer pricing regulations were updated in December 2015. The form for declaring related-party transactions were updated in April 2017 (called the "**Related-Party Transaction Reporting Form**" or "**RPTR Form**").

FICs who have made transactions with related parties must complete and submit RPTR Forms on a semi-annual basis.

3.10. Thin capitalisation

The debt to equity ratio is 3:1 for tax purposes. In this context, if the investor has extended a loan exceeding three times the amount of the 'previous investment', interest payments on the portion of the loan in excess of the previous investment are treated as dividend for the investor and cannot be deducted as an expense by the resident taxpayer.

The 'previous investment' test is broadly defined as investing or making capital contribution to a taxpayer by way of purchase of ordinary or preferred shares or share-equivalents and advancing money on an irrevocable basis. The definition does not specify when the previous investment supposed to have been made.

3.11. General anti-avoidance rules (GAAR)

There are no GAAR in Mongolia.

3.12. Tax year

The tax year is the same as the Gregorian calendar year.

3.13. Filing and payment

Companies must self-assess their corporate income tax liabilities and submit their corporate income tax returns on a quarterly basis as follows:

- 1st quarter return – due before 20th of April
- 2nd quarter return – due before 20th of July
- 3rd quarter return – due before 20th of October
- 4th quarter or year-end return – due before 10th of February

In general, tax payments must be made around the same time as the due date of the tax return. It is preferable to pay on the same date or a few days before the due date of the tax return.

Withholding tax must be remitted to the tax office within 7 business days.

3.14. Statute of limitations

The statute of limitations is 5 years. After the expiration of the 5 years, tax authority cannot demand any due taxes or impose fine or interest.

3.15. Advance rulings

The concept of advance ruling does not exist in Mongolia. Nevertheless, if taxpayers submit a letter to the tax authority on any tax-related matter, they can obtain letters of response from the tax authority that set out the tax authority's position. However, any letters of response given by the tax authority are not binding.

3.16. Tax authorities

The Mongolian Tax Administration (MTA) administers the tax laws of Mongolia.

4. Indirect taxes

4.1. Value-added tax

The duty to register for VAT arises when a trader's sales income reaches MNT50 million.

VAT is chargeable on:

- (i) Supplies of goods and services within Mongolia
- (ii) Importation of goods and services
- (iii) Exportation of goods and services

Supplies of goods and services in Mongolia and importation of goods and services are subject to 10% VAT. Exportation of goods and services are zero-rated.

VAT-exemption applies to (but not limited to) sale or transfer of shares, sale of gold, sale of home, exported mineral products, dairy products, exported raw or combed cashmere, importation of lumber, foreign exchange, insurance, lending services, banking and financial services and health services. VAT is not recoverable for businesses that carry on exempt activities.

Filings are done on a monthly basis in electronic form.

4.2. Stamp duty

There is no stamp duty in Mongolia. Due to a mistranslation, the term "stamp duty" is applied to government service fees, which are paid virtually on most government services including applying for a passport, work permit, registering a company, applying for a licence and applying for a visa.

4.3. Customs and excise duties

Customs duties can range from zero to 40%. On most goods, the rate is 5%. Exemption applies to (but not limited to) equipment used for renewable energy and their parts, imported lumber or logs, sports equipment and machinery and equipment used for oil exploration or production.

Excise tax is imposed on all types of alcoholic beverages, tobacco, petrol and diesel fuels, automobiles, automatic games (such as slot machines), bookmaking, table games and equipment used in gambling.

With respect to petrol and diesel fuels, varying rates of excise tax apply depending on the port of importation and octane levels in the petrol. With respect to automobiles, varying rates of excise tax apply depending on the engine size and the age of the vehicle.

4.4. Other taxes

Other taxes include immovable property tax which ranges between 0.6%-1% and mineral royalties depending on the mineral and level of processing.

5. Individual income tax and social security

5.1. Residence

A statutory residence test applies under the Personal Income Tax Act 2006, as amended. An individual who is physically present in Mongolia for 183 days or more in a tax year or who has a home in Mongolia is considered a resident.

If an individual is resident in Mongolia and another state, the dual residence can be resolved under the provisions of the relevant tax treaty.

5.2. Taxable income and rates

Tax residents must pay on their worldwide income at varying rates depending on the type of income.

Tax residents' salary, wages and other income derived from employment are subject to withholding by the employer at 10% flat

Resident individuals working in Mongolia under an employment contract are entitled to a credit (i.e. a "tax break") in computing the income tax payable. The tax break previously was a fixed amount regardless of the amount of taxable income (with the amount increasing annually), but it is now dependent on the employee's taxable income, as follows:

	Annual taxable income (in MNT)	Amount of tax credit (in MNT)	
		2018	2019 and thereafter
1	0-6 million	160,000	240,000
2	6,000,000-12 million	140,000	220,000
3	12,000,000-18 million	120,000	200,000
4	18,000,000-24 million	100,000	180,000
5	24 000 000-30 million	80,000	160,000
6	30,000,000-36 million	60,000	140,000
7	36,000,000 or more	-	-

Although it is not specified in the law, practically for Year 2018, the 160,000 credit would apply if the annual income is 6 million, the 140,000 credit would apply if the annual income is 6,000,001 or more but not higher than 12 million, and so forth.

Other rates include:

	Type of income	Tax rate
1.	Sale of immovable property	2%
2.	Income earned from scientific, literary or artistic works, inventions, sports contests, organising or participating in artistic performances, and awards received for artistic performances or sports contests	5%
3.	Sale of shares (on gain)	10%
4.	Interest	
5.	Royalties	
6.	Dividends	
7.	Sale of movable property (including cars)	
8.	Lease (less costs incurred)	40%
9.	Winnings from lottery or raffle	

Individuals who are self-employed including lawyers, doctors, teachers, architects, accountants and contract workers are subject to 10% tax and are allowed to deduct various costs.

Tax residents must submit their tax return before 15 February each year. Tax return submissions are done electronically.

Non-residents are subject to withholding tax on their Mongolian-source income at the rate of 20%. The Mongolian resident who is making the payment is the withholding agent.

5.3. Social security

Under the Social Insurance Act 1994, Mongolian citizens, foreign nationals and stateless persons who are employed by a business enterprise or perform independent contract work are subject to mandatory social security withholdings.

Social security contributions cover pension insurance, benefits insurance, health insurance, unemployment insurance and industrial accidents or occupational diseases insurance.

Below are the social security rates for both individuals and the employer:

Type of social security	2018		2019		2020	
	Employer contribution	Individual contribution	Employer contribution	Individual contribution	Employer contribution	Individual contribution
Pension insurance	8%	8%	8.5%	8.5%	9.5%	9.5%
Benefits insurance	1%	0.8%	1%	0.8%	1%	0.8%
Health insurance	2%	2%	2%	2%	2%	2%
Unemployment insurance	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%
Industrial accidents/ occupational disease insurance	0.8%-2.8%	-	0.8%-2.8%	-	0.8%-2.8%	-
Total	12%-14%	11%	12.5%-14.5%	11.5%	13.5%-15.5%	12.5%