DOING BUSINESS IN VIETNAM

AASC Limited

doing business in Vietnam

foreword

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AASC AUDITING FIRM
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about HLB International

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general information

ABOUT VIETNAM

After the August Revolution and the National Independence Day (02/09/1945), from a French colonial Indochina that transformed into the Democratic Republic of Vietnam, and nowadays is the Socialist Republic of Vietnam. The capital city is in Hanoi and the largest city - formerly known as Sai Gon - was renamed after President Ho Chi Minh.

GEOGRAPHY AND CLIMATE

Geography

Vietnam is an elongated "S" shape, located on the eastern margin of the Indochina Peninsula in Southeast Asia and occupies about 331,211 square kilometres. Vietnam's frontier in the North side borders China (1,281 km), the West side borders Laos (2,130 km) and Cambodia (1,228 km), the South-West faces the Gulf of Thailand, and the East and the South faces the South China Sea.

Regarding land resources, Vietnam has abundant natural forest and mineral deposits with phosphates, coal, manganese, bauxite, chrome...

There are also various marine resources such as oil, natural gas, and mineral ores offshore production. Due to its steep river system running from the western highlands, Vietnam has great potential for hydropower development.

Climate

The climate in Vietnam differs between the regions, details are as below:

In the South Vietnam there is a subequatorial climate with 2 different seasons:

- Rainy/Humid season from May to October and
- Sunny/Dry season from November to April

In the North of Vietnam there is a subtropical climate, which has 4 distinct seasons:

- Spring (from March to April) with temperatures between 17 to 23 degrees Celsius
- Summer (from May to August) with temperatures from 30 to 39 degrees Celsius
- Autumn (from September to November) with temperatures from 23 to 28 degrees Celsius
- Winter (from December to February) with temperatures from 7 to 16 degrees Celsius

CONSTITUTION AND POPULATION

Constitution

The current Constitution determines Vietnam's political economic, socio-cultural, military and security, the basic rights and obligations of Vietnamese citizens, the structure, organizing and operating principles of State offices and the Party.

Population

The total area of Vietnam is 331,212 km², including 327,480 km² of land and more than 4,200 km² of sea, with over

88 million people (estimated in 2012). The Labour force (ages from 15-59) accounts for 66% of the population. Vietnam currently has "Golden population"- the period that happens once in the developing history of any nation.

The Government

The Government is the executive body of the National Assembly, and the highest state administrative agencies of the Socialist Republic of Vietnam.
The Government is responsible to the National Assembly for managing the implementation of political, economic, cultural, social, defense, security and foreign affair of the State; ensuring effectiveness of the State apparatus from the centre to branch levels; ensuring respect and observance towards the Constitution and the law; promoting the sovereignty of the people, to allow stability and improvement of people's standard of living and cultural life
The Communist Party of Vietnam is the ruling governor in Vietnam. The Communist Party led the state through policy decisions, guidelines and through the introduction of its members to hold important positions of the State. The President and the Prime Minister are elected by the National Assembly. The President will appoint cabinet members based on the nomination of the Prime Minister and the approval of the National Assembly. The Deputy Prime Minister is appointed by the Prime Minister.

Legal system

The legal normative system of Vietnam consists of the Constitution promulgated by the National Assembly, law and its guidance such as Decrees and Circulars will be issued by the Government and by the Ministry respectively, and Normative laws of the People's Council, People's Committee. Laws that directly relate to business or investment activities are for instance Tax Law, Investment Law, Labour Code, Business Law...

Currency and Language

Currency (According to Vietcombank exchange rate dated 31/01/2013)

Currency	1 USD	1 EUR	1 AUD	1 CAD	1 HKD	1 GBP
Dong	20,865	26,473	21,871	20,944	2,711	33,121

Language

In addition to ethnic minority languages, Vietnamese is the official language of more than 90% of Vietnamese citizens. 90% of Vietnamese citizens can write; and this indicator is targeted to reach 98% in 2015, reflecting the efforts of the Vietnamese Party and Government. According to the general trend of the world, English language is now being taught in most schools and universities and is widely used in the working environment

Economic arrangements and management

One of the fundamental contributions to the great achievements of Vietnam since independence day is the economic transformation from a socialist centrally planned, bureaucratic economy with subsidies to a socialist-oriented market with active integration into the international economy, liberated productive forces and the formation of the new motivation of growth for the economy. In fact, the profound changes are made through the construction of the economics and establishing a socialist-orientated market economy, economics restructuring towards industrialization and modernization and encouragement of international integration. The most remarkable economic achievements are expressed by GDP per capita.

Specifically, compared with 1988 when GDP per person was only USD 86 as low as the lowest level of GDP in the world, the number has constantly increased over the years and reached about USD 1,546 in 2012.
Currently, Vietnam is a member of many international organizations such as the United Nations, Francophone Community, ASEAN, and APEC. Vietnam

officially became the 150th member of the World Trade Organization (WTO) after 11 years of negotiations and normalization of relations with the United States on January 11, 2007.

Business practice

One unique habit that differentiates Vietnam from Western countries is the way we use a “First name“ instead of the “Last name” in daily communication. Transactions or contract negotiations are not always rigid in the office, nor are participants expected or required to wear formal suits and ties. Sometimes successful transactions can take place at a dinner or a golf session or other similar activities rather than at the office.

investment factors

Government and Local Incentives

In line with world movements, Vietnam has been observing significant changes in policies to attract foreign investment resources into Vietnam. Vietnam is considered as a competitive place compared with other countries in the region thanks to its skilful, diligent and hardworking workers at a low cost level which can meet any work requirements. In addition, thanks to the quality improvement of infrastructure in major cities such as Hanoi and Ho Chi Minh City, Vietnam has successfully attracted more businesses. In addition, good restaurants, supermarkets offering a variety of goods, low cost servants, high-quality international schools and simplified administrative procedures have turned Vietnam into a favourable place for businesses. Procedures to set up a business in Vietnam have been accelerated to generate a friendly business environment for investors. Industrial parks are established at localities so as to offer incentives and create jobs for local people. The legal document system related to foreign investment activities has been steadily streamlined over time.

Financial sources

Generally, a business registered as a legal entity operating in Vietnam can raise capital throughout the commercial banking system in Vietnam that includes state-owned commercial banks, joint-stock commercial banks, credit funds, joint-venture banks, 100% foreign-owned banks, branches of foreign banks... who can lend up 60% of capital demand in long-term. In addition, foreign loans are acceptable provided that such transactions are registered and approved by the State Bank of Vietnam.

Debt financing, particularly loans via banks offers a tax advantage, because interest paid is generally deductible. In such cases a foreign loan is subject to the foreign contract withholding tax (see tax section for more information)

A business registered in the form of Joint Stock Companies (JSC) can also raise funds by issuing bonds, debentures and listed companies can offer shares on the stock market. In such cases contribution rates and voting rights held by foreign investors (regardless of individual or organization) in any legal entities are limited to 49%. A foreign invested company is allowed to transform into a JSC, and then can be entitled to access fully the capital channels mentioned.

The stock market in Vietnam consists of two trading centres, Ho Chi Minh Stock Exchange or "HOSE" (established in 2000 and renamed in 2007) and Hanoi Stock Exchange or "HNX" (initially established in 2005 as Hanoi Securities Trading Center, and reconstituted as Hanoi Stock Exchange in January 2009). The HOSE is to serve for the country's primary stocks with a legal capital of VND 80 billion onwards. In parallel, the HNX is for those companies whose legal capital is at least VND 10 billion. In order to facilitate transactions in (unlisted) public companies, a market for their securities was opened and has been managed directly by the HNX since June 2009 and called UPCOM.

By the end of 2012, the total capitalisation of Vietnam's listed securities was achieved at USD 37 billion (26% of GDP), increased by USD 11 billion in comparison with 2011.

Foreign exchange controls

According to Circular No. 06/2012/TT-BTC, all transactions above VND 20 million must be handled via the bank system so as to have VAT reimbursed. As a result, Vietnamese businesses have been getting familiar with doing transactions through a commercial bank instead of traditional cash transactions, which also helps to improve monetary management and control.

Foreign investment companies are allowed to buy foreign currencies at commercial banks to trade in foreign currencies in order to meet business need and others under the law on foreign currency control regulations.

According to Circular No. 186/2010/TT-BTC dated 18 November 2010, profits to be remitted abroad from Vietnam by foreign investors under this Circular are lawful profits shared or earned from direct investment in Vietnam under the Investment Law after fulfilling all financial obligations towards the Vietnamese State.

Profits to be remitted abroad from Vietnam may be in cash or in kind.

- Offshore remittance of profits in cash complies with the law on foreign exchange management;
- Offshore remittance of profits in kind and conversion of their value complies with the law on goods import and export and the relevant laws.

Determination of profits to be remitted abroad

- Annual profits to be remitted abroad are those shared or earned by foreign investors in a fiscal year as a result of their direct investment based on audited financial statements and statement of corporate income tax finalization of enterprises; plus (+) other profits such as profits carried forward from previous years; minus (-) amounts they have used or committed to use for reinvestment in Vietnam and profits they have used to cover their expenses for production and business activities or for their personal needs in Vietnam.

- Profits to be remitted abroad upon termination of investment in Vietnam means the total profits foreign investors earn from their direct investment in Vietnam minus (-) profits they have used for reinvestment, profits they have remitted abroad during their operation period in Vietnam and amounts they have used to cover other spending items in Vietnam.

- Foreign investors may not remit abroad profits they are shared or earned from their direct investment in Vietnam in a year of profit generation but their accumulated losses are still in place after such losses are carried forward under the law on enterprise income tax.

EMPLOYMENT REGULATIONS

Salaries and wages

Wages or salaries are calculated based on the labour agreement between the employer and employee, and subject to actual productivity, quality and efficiency of his work. However, the salaries or wages must be not lower than minimum wage level in accordance with the Labour Code.

Working hours

Unlike Western countries where the working day starts from 9 AM, the usual working day starts a bit earlier, from 8:00 AM to 5:00 PM in Vietnam. Normally, the daily working length is 8 hours and not longer than 48 hours a week. Overtime working may be required, subject to the work requirement and the labour agreement between the two parties, but the length of such overtime shall not exceed four hours per day nor 200 hours per year. In some special cases, overtime working length may last to 300 hours per year, subject to the approval of the Government in due consultation with the Vietnam General Confederation of Labour and legal representative of the employer. Annual public holidays are as follows:

Public Holidays	Date	Duration
New Year	1 January	1 day
Tet holidays	Lunar New Year	4 days
Hung Kings Commemorations	10 March lunar calendar	1 day
Liberation Day/Reunification Day	30 April	1 day
International Workers' Day	1 May	1 day
National day	2 September	1 day

Labour contracts

A labour contract is an agreement between the employee and the employer which defines the payment, the working terms, conditions and the rights and obligations of each party in their labour relations. There are several forms of labour contract as follows:

- A contract with indefinite duration;
- A contract valid from one to three years;
- A contract for a seasonal job or a specific job to be carried out in less than one year.

The labour contract must be signed in written form, with each party keeping one copy. The contents of the labour contract must include the following elements: a description of the duties to be performed, the working time, the break time, the salary, the place of work, the duration of the contract, the conditions on labour safety and labour sanitation, along with the social insurance for the employee.

Trade Unions

Article 1 paragraph 3 of the Trade Union Law shows that a Trade Union is a legal entity which can represent employees in a collective negotiation and any dispute at a court. It must be established 6 months after the business starts operation so as to protect the legal benefits of employees. There is no discrimination between foreign invested and local businesses. All businesses would, therefore, need to contribute one percent from their wage fund to maintain the Trade Union's operations.

Social Insurance

Social insurance is compulsory for every business, agency and organization which has employees with a working term of more than 3 months to an indefinitive period.

From 1/2012 to 31/12/2013, the social insurance level equals 24% of an employee's salary of which, 17% is paid by the employer and 7% by the employee. From 1/2014, this level will increase to 26% with the contribution ratio between the employer and employee of 18% and 8% respectively.

Under the normal condition, employees are entitled to social insurance benefits when they suffer from sickness, labour accidents, occupational diseases, maternity, retirement and death. Employees are entitled to a monthly pension, at the age of sixty years old for men or fifty five years old for women and with a total social insurance period being not less than 20 years as minimum.

Unemployment Insurance

Unemployment insurance is compulsory for any business having more than ten employees. The contribution rate equals to 3% of salary, of which: employee contributes 1%, employer: 1%, and 1% from the State budget.

Expatriates

Foreign investment enterprises must process formalities at the Department of Labour, War Invalids and Social Affairs and/or the industrial park management board at localities in case of recruiting workers from foreign countries so as to get legal working permit licenses. The license normally has a valid term from 3 up to 36 months. However, if the director is a direct investor or a member of the Board of Management, then he or she is not required to apply for a working permit license.

Starting a business

The procedures to establish a new enterprise in Vietnam are specified in Article 28 of the Law on Enterprise with the sequence as follows:

Procedure	Time	Fee (VND)
To obtain a Business Registration Certificate at Department of Planning and Investment at provincial/ central city level	15 days	200,000
To apply for company seal	2 working days after receiving the Registration Business Certificate	50,000
To publish business information in the National Business Registration System (NBRS) in accordance with Article 28 of Enterprise Law and make necessary payment for publication	During 30 days	
To pay license tax	1 day	Upon the registering of capital
To buy or to have VAT invoice self-printed		Self-arrangement
To register and declare the number of employees at the Department of Labour, Invalids and Social Affairs	1 day	Free
To register with the Social Insurance Fund for the payment of employees health insurance and social insurance	1 day	Free
To register Trade Union with Vietnam General Confederation of Labour	1 day	Free

The procedures to establish a new business in Vietnam are compared by the World Bank to East Asia and Pacific countries and OECD as below:

Indicator	Vietnam	East Asia and Pacific	OECD
Procedures (number)	10	7	5
Procedures (day)	34	36	12
Cost (% of Income per capita)	8.7	22.4	4.5

Obviously, Vietnam currently has certain advantages of attracting foreign investment due to the number of days required to set up a new enterprise and related costs being lower than those in the East Asia and Pacific countries.

types of business organisations

Pursuant to the Enterprise Law, organisations or enterprises can be established under one of the following forms: State-owned, joint venture, 100% foreign invested, partnership, joint stock, one-member limited liability, and limited liability with two members or more.

Foreign enterprises that wish to invest in Vietnam can choose one of the following forms of business: limited liability, joint stock with 100% foreign capital, joint venture, partnership, representative office or branch in Vietnam.

Joint Venture

The joint venture form is a company established between one or more Vietnam company(ies) and one or more foreign company(ies) based on the joint venture contract to co-invest and co-operate.

A joint venture company is a limited liability company with more than two members. Each partner will be responsible for the capital share as prescribed. A joint venture, which is established in Vietnam, is a legal entity to be established and operated from the date of the Investment Certificate.

100% Foreign-Owned Company

This type of company is owned and established in Vietnam by foreigners who manage and are responsible for its operations.

ACCOUNTING AND AUDITING REQUIREMENTS

Accounting requirement

It is required that all companies or organizations apply Vietnamese Accounting System and Standards as well as other regulations issued by the Ministry of Finance. The regulation on accounting is based on the Accounting law promulgated in June 2003 and other guidance documents by the Government and the Ministry of Finance. All enterprises or organizations must prepare financial statements at the end of each financial year or fiscal period. The fiscal period could be the solar calendar year or selected by the company but must be the beginning of a month of a quarter.

Auditing requirements

Audited financial statements are compulsory for the following businesses and institutions:

- Foreign investment enterprises;
- Credit and institutional organizations;
- Financial organization and insurance companies;
- Joint stock company, limited liability, and securities companies;
- Unlisted public companies;
- State- owned companies;
- Report on finalization of a construction project.

taxation

General information about tax and fiscal year

General structure:

The Vietnam tax system is applied to all economic sectors nationwide:

- Corporate income tax
- License duty
- Personal income tax
- Value added tax
- Special consumption tax
- Import and export duties
- Foreign contract withholding tax
- Tax on the use of agricultural land
- Tax on the use of non-agricultural land
- Tax on natural resource
- Registration fees
- Fees and legal fee
- Other taxes

Fiscal year:

Financial year is from 01/01 to 31/12 of each calendar year.

Corporate income tax

Corporate income taxpayers are any organization conducting activities of production and/or business in goods and services which earns taxable income, comprising:

- Enterprises that are established and operating under the Enterprise Law, Investment Law, Law on Credit Institutions, Insurance Business Law, Securities Law, Petroleum Law, Commercial Law …
- Public non-business units, non-public non-business unit with production and business of goods and services having income in all areas.
- Organizations established and operating under the Cooperative Law.
- Enterprises established under foreign law (hereinafter referred to as foreign enterprises) that have their permanent establishments in Vietnam.
- Any other organization conducting activities of production and/or business which earns income.

Tax income in tax period includes income from production and business activities of goods and services, and other incomes

Taxable income	=	Revenue	-	Deductible expenses	+	Other Income
Tax calculation Income	=	Taxable Income	-	Tax exempt Income	-	Loss carried forwards as prescribed
Payable income tax	=	Taxable income			x	Tax rate

Taxpayers must prepare an annual CIT declaration form for CIT return including a section for making adjustments between accounting profit and taxable profit.

Other income includes:

- Income from alienation of capital and securities, immovable property, projects, assignment of project implementation, assignment of the right of exploration, extraction and processing of mineral in accordance with the law.
- Income from ownership or use of assets, including proceeds from the copyright in any form of payment to the ownership, right to use property, intellectual property right, income from transfer of technology as prescribed by law, property leasing in any form.
- Income from transfer of assets and liquidation of assets (excluding

immovable property), and other valuable papers.

- Income from deposit interest, loan interest, credit guarantee fee and other fees in capital loan contracts.
- Income from exchange rate differences; Income from reversal of reserves.
- Bad debts written off now recovered.
- Income from omitted business and production activities of previous years now discovered... and other income in accordance with law.

Income eligible for tax exemption:

- Income earned from products of cultivation, husbandry and aquaculture by organizations established pursuant to the Law on Co-Operatives.
- Income from technical services provided for agriculture including: income from services of irrigation, plowing, raking soil, dredging canals, services of extermination of pest for plants and animals, services of harvesting.
- Income from the performance of scientific research and technology development contracts; income from the sale of trial-manufactured products, income from the sale of products using technologies newly applied in Vietnam, including income from the transfer of Certified Emissions Reductions (CERs).
- Income from the production and business of enterprises that employ disabled, detoxified people, HIV sufferers accounting for at least 30% of the average number of workers in a year of the enterprise.
- Income from vocational training provided for ethnic minorities, the disabled, impoverished children, criminals, detoxifying people, detoxified people, HIV/AIDS sufferers
- The income from the capital contribution, share purchase, joint venture and economic cooperation with domestic enterprises after enterprise income tax as prescribed in the Law on Enterprise income tax
- The sponsorship received to be used for educational, scientific, cultural, artistic, charitable, humanitarian activities, and other social activities in Vietnam.

Tax rate:

The standard CIT rate is 25%. Businesses operating in the oil and gas industry are subject to CIT rate from 32- 50% depending on the Prime Minister's decision. According to Circular No. 123/2012/TT-BTC dated 27 July 2012, preferential tax rates and periods for each case are as below:

Preferential Rate	Conditions	Period	Duration	
			CIT Exemption	CIT Deduction
20%	Enterprises newly established from investment projects in localities with socio- economic difficulties specified in the Annex promulgated together with the Government's Decree No. 124/2008/ND-CP on December 12, 2008.	10	2 years	50% reduction in tax amount payable in 4 succeeding years.
20%	Agricultural service cooperatives, People's credit funds, and Micro financial institutions.	During the Period of Operation		
	Enterprises newly established engaged in socialization in localities NOT in the list of localities with socio-economic difficulties or with extreme socio-economic difficulties in the Annex promulgated together with the Government's Decree No. 124/2008/ND-CP on December 12/2008.		4 years	50% reduction in the tax amount payable in 5 succeeding years.

Preferential Rate	Conditions	Period	Duration	
			CIT Exemption	CIT Deduction
10%	• Enterprises newly established from investment project in localities with extreme socio- economic difficulties in the Annex promulgated together with the Government's Decree No. 124/2008/ND-CP on December 12, 2008 ; • Enterprises newly established from investment projects in economic zones, Hi- tech zones established under the Prime Minister's Decisions; • Enterprises newly established from investment projects belong to the following industries: Hi-tech as prescribed by law, scientific research and technology development. Investment in water plants, power plants; water supply and drainage systems, bridges, roads, railways, airports, seaports, river ports, railway stations, and particularly important infrastructure decided by the Prime Minister - Software production	15 15-30	4 years	50% reduction in the tax amount payable in 5 succeeding years
10%	Enterprises that operate in educational, vocational training, health, cultural, sports, and environmental activities; part of the income from publishing activities as prescribed by the Law on Publishing.	During the Period of Operation		

The application for a preferential tax rate is calculated from the first profit-generating year. The duration for tax exemption or a deduction is calculated from the first year of business taxable income.

Losses carrying forward:

Enterprises can carry their losses to subsequent years for deduction from taxable income. However, tax payers can only carry forward tax losses fully and consecutively for a maximum of five years.

Transfer pricing:

Vietnam has strictly regulations listing several situations where transactions will be considered as being between related parties, and will give the methods to determine the market arm's length transaction value, for instance, comparable uncontrolled price, cost plus, resale price, comparable profit and profit extraction.

According to the wide-range definition of a related party, the control threshold is lower than in many other countries (20%) and this definition also extends to certain significant suppliers, customers and funding relationships between otherwise unrelated parties.

Requirements for saving documents and information on related transactions include an annual declaration of related parties' transactions and the valuation methods are used in the declaration of related transaction submitted in accordance with CIT finalization form. Vietnam has strictly prohibited and given strong punishments for transfer pricing behaviour, that complies with the law of the host country but is contrary to corporate ethics.

Paying tax:

CIT may be declared and paid quarterly but no later than the 30th of the first month of the following quarter. The CIT settlement must be submitted every year. The deadline for submitting the corporate income tax finalization is within 90 days after the end of the financial year.

Personal income tax

Personal income taxpayers refer to any resident individual with taxable income arising either within or outside the territory of Vietnam, or any non-resident individual with taxable income arising within the territory of Vietnam

A resident individual can be any person satisfying one of the following conditions:

- Being present in Vietnam for a period of one hundred and eighty-three (183) days calculated within one western calendar year or within twelve (12) consecutive months from the date of entry into Vietnam;

- Having a regular residential location in Vietnam which can be either a permanent residence that has been registered or a property rented pursuant to a lease for a term for residential purposes for more than 90 days.

Non-resident individual means any person not satisfying the conditions stipulated above who must pay tax at 20% of income earned in Vietnam.

Personal income tax for Residents

No.	Annual Taxable Income/year (million VND)	Monthly Taxable Income/month (million VND)	Tax rate (%)
1	Up to 60	5	5
2	60 - 120	05 - 10	10
3	120 - 216	10 - 18	15
4	216 - 384	18 - 32	20
5	384 - 624	32 - 52	25
6	624 - 960	52 - 80	30
7	Above 960	Above 80	35

Residents - Non employment income

No.	Type of taxable income	Tax rate (%)
1	Interest/dividends	5
2	Sales of securities	20
3	Capital/Investment transfer (net gain)	20
4	Sale of real estate Net gain; or Sales proceeds	 25 2
5	Income from copyright	5
6	Income from franchising/royalties	5
7	Income from winning prizes	10
8	Income from inheritances/gifts	10

Non Resident

No.	Type of taxable income	Tax rate (%)
1	Employment income	20
2	Business income	1-5
3	Interest/Dividends	5
4	Sale of securities, Capital/Investment transfer	0.1% on sales proceeds
5	Sales of real estate	2% on sales proceeds
6	Income from royalties/franchising	5
7	Income from inheritance/gifts/winning prizes	10

Non-taxable income includes:

- Interest on money deposited at any credit institutions, and those earned from life insurance policies.
- Income from indemnities paid under the life insurance policies, and the non-life insurance policies;
- Retirement pensions paid under Social Insurance;
- Direct income from the transfer of real estate between family members;
- Direct income from inheritances or gifts between family members.

Tax deduction includes

- Contributions to mandatory social, health and unemployment insurance;
- Contributions to charities
- Tax deductibles:

- Reduction for the taxpayer, which is VND 4 million/month (VND 48 million/year);
- Reduction for each dependant of the taxpayer, which is VND 1.6 million/month. Tax payer should submit a registration form and evidence so as to enjoy tax deductibles. Dependants of a taxpayer means persons a taxpayer is responsible for nurturing or taking care of, including: his/her minor children or disabled children who are incapable of working; individuals who have no income or have an income not exceeding the prescribed level, including adult children who are studying at a university, college, professional secondary school or job-training establishment; his/her spouse who is incapable of working; his/her parents who are beyond the working age or incapable of working; other supportless persons whom the taxpayer has to directly nurture.

Value added tax

Definition

Value added tax refers to a tax that is imposed on the added value of goods or services arising during the process from manufacture and circulation up to consumption.

Characteristics of VAT

- VAT is an indirect tax
- Total VAT collected at all stages is the VAT in the price to consumers
- VAT scope is on consumption activities within the territory

Scope of Application

VAT is applied on goods and services used for production, trading and consumption in Vietnam (including goods and services purchased from aboard). In each case, business must charge VAT on the value of goods and services supplied.

VAT is calculated as the output VAT charged to customers less the input from purchasing goods and services. In order to credit input VAT, taxpayers must collect a legal VAT invoice from supplier.

No.	Content	Tax rate (%)
1	Applied to exported goods and services including goods sold to enterprises without permanent establishment in Vietnam (including companies in non-tariff zone), goods processed for export, goods sold to duty free shops, certain exported services, construction and installation carried out abroad or for an export processing enterprise, aviation, marine and international transportation services	0
2	Applied to essential goods and service such as clean water, fertiliser production, teaching aids, books, foodstuffs, medicine and medical equipment, husbandry feed, various agricultural products and services, technical/scientific service, rubber latex, sugar and its by-product. Machines and equipment for agricultural activities; Equipment and medical equipment for health; Cultural activities, exhibitions, education and sports, art performance, film production, importing and displaying films; Toys for children.	5
3	Applied to activities other than those not subject to VAT, or exemption or not being required to declare VAT	10

Goods and services not subject to VAT

Output VAT which is not required to be declared and paid while its input VAT paid on related purchases can be credited includes:

- Goods or services which are provided from outside Vietnam, except for certain international transportation activities that depart from or arrive at a foreign country.
- Income from compensation, bonus, support amounts, transfers of emissions rights and other financial revenue.
- Certain services rendered by a

foreign organization which does not have a permanent establishment in Vietnam and the services are rendered outside of Vietnam, including repair of all means of transports, machinery or equipment, advertising marketing, promotion of investment and trade, brokerage activities, training, certain international telecommunication services

- Organizations or individuals who are not businesses or doing business, do not have to charge tax when selling assets or including assets used to secure loan at banks or credit institutions
- Fixed assets which are in use, and depreciated, are transferred between a parent company and its subsidiaries or between subsidiaries of the same parent company for operation, production and services activities subject to VAT will not need to charge and pay VAT.
- Capital contributions in kind of assets to establish a business
- Collections of compensation/indemnities by insurance companies from third parties;
- Collection on behalf of other parties which are not involved in the provision of goods/services (for example: if company A purchases goods and services from company B but pays company C and subsequently company C pays company B is not subject to VAT)
- 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%;

(iii) insurance agents.

- Commission earned from sales of goods/services not subject to VAT

Business gets tax exemption in the following cases:

- Some agricultural products which have not yet been processed or only been preliminary treated.
- Drilling rigs, aeroplanes or ship which cannot be produced in Vietnam, are imported to generate real estate or leased from foreign countries
- Transfer of land use rights;
- State owned houses sold to tenants
- Financial derivatives, credit services (including issuing credit cards)
- Financial activities;
- Securities activities including fund management;
- Capital transferring;
- Foreign currency trading;
- Debt factoring;
- Certain insurance services (including life insurance, health insurance, agricultural insurance and reinsurance);
- Medical service, veterinary service...
- Postal services, public telecommunication and Governmental Internet popularizing programme, telecommunications from aboard to Vietnam;
- Public services such as sanitation, drainage systems, residential areas, maintenance of zoos, gardens, parks, public lighting, funeral services;
- Cultural, art, public building or construction or housing for specified person maintained, repaired or constructed by the contribution of people or humanitarian aid;
- Teaching and training;
- Broadcasting radio and television sponsored by the State budget;
- Printing and publishing newspapers, magazines and some types of books
- Certain cultural, artistic and sports services/products
- Transportation using public buses
- Transferring technology and software services, except for exported software with 0% rate;

- Gold imported in pieces which are not yet processed into jewellery
- Exported unprocessed mineral products such as crude oil, rock, sand, rare soil, rare stones, etc;
- Imported equipment, machinery, transport which are used for research and development activities
- Equipment, machinery, tools, transport and necessary materials used for prospecting, exploiting and developing oil and gas fields (which cannot be produced in Vietnam).
- Goods are imported in the following cases: international non-refundable aid including Official Development Aid (ODA), gifts from international institutions, to government bodies and individual (according to limitations)
- Products used to replace artificial body part of patients including products which are implanted long term in human body, crutches, wheelchairs, and other specialized equipment for disabled people

VAT calculation methods:

Deduction method:

VAT payables = Output VAT - Deductible Input VAT

Direct method:

VAT payable = Valued added of goods or services x VAT rate

Goods and services used internally

Goods and services used internally will be charged VAT based on their sales price. For entities which use goods and services internally for business fields such as transport, aviation, railways, and telecommunications, output VAT will not be charged. However, the entities must have authorized regulations for specified objects and limitations in use of goods.

Tax management

In accordance with the current regulation, entities are allowed to buy or print VAT invoice or publish electronic form of VAT invoice as long as they are registered at local tax authorities.

VAT must be paid by the 20th of the following month. Newly established entities without output VAT can claim a VAT refund on an annual basis or even earlier depending on the deductible input VAT incurred. For newly established branches and pre-operating projects, entities can claim an input VAT refund on VAT paid on imported fixed assets in shorter term than normal if a number of conditions are met

Special consumption tax

Definition

A special consumption tax is applied for producing or importing some certain goods and services. Goods and services which are subject to a special consumption tax are also subject to VAT.

The Special Consumption Tax is as follows:

No.	Goods and services	Tax rate (%)
I	Goods	
1	Cigarettes/ cigars	65
2	Liquor	
	a) Liquor of 20^0 and more	
	From 01 January 2010 to 31 December 2012	45
	From 01 January 2013	50
	b) Liquor below 20^0	25
3	Beer	
	From 01 January 2010 to 31 December 2012	45
	From 01 January 2013	50
4	Cars having less than 24 seats	
	a) Passenger car of 9 seats or fewer, except those specified at Point 4e, 4f, 4g.	
	Of a cylinder capacity of 2,000 cm^3 or less	45
	Of a cylinder capacity from 2,000 cm3 to 3,000 cm^3	50
	Of a cylinder capacity above 3,000 cm^3	60
	b) Passenger cars of between 10 seats and under 16 seats, except those specified at Points 4e, 4f and 4g of this Article	30

	c) Passenger cars of between 16 seats and under 24 seats, except those specified at Points 4e, 4f and 4g of this Article	15
	d) Cars for both passenger and cargo transportation, except those specified at Points 4e, 4f and 4g of this Article	15
	e) Cars running on gasoline in combination with electricity or bio-fuel, with gasoline accounting for not more than 70% of the used fuel	70% of the tax rate for cars of the same kind as specified at Points 4a, 4b, 4c and 4d of this Article
	f) Cars running on bio-fuel	50% of the tax rate for cars of the same type as specified at Points 4a, 4b, 4c and 4d of this Article
	g) Electrically-operated cars Passenger cars of 9 seats or fewer Passenger cars of between 10 seats and under 16 seats Passenger cars of between 16 seats and under 24 seats Cars for both passenger and cargo transportation	 25 15 10 10
5	Two- and three-wheeled motorcycles of a cylinder capacity of over 125 cm^3	20
6	Airlines	30
7	Yachts	30
8	Gasoline of all kinds, naphtha, reformade components and other components for mixing gasoline	10
9	Air conditioners of 90,000 BTU or less	10
10	Playing cards	40
11	Votive gilt papers and votive objects	70
II	Services	
1	Dance halls	40
2	Massage lounges and karaoke parlours	30
3	Casinos and prize-winning video games	30
4	Betting	30
5	Golf business	20
6	Lottery business	15

OTHER TAXES

Import and Export duties

Import duty

Import duty is classified into three types: ordinary rate, preferential rate and special preferential tax. The preferential tax is applied on goods imported from countries applying Most Favoured Nation (MFN or Normal Trade Relation) with Vietnam.

The special preferential rate is applied on goods imported from countries that have special agreements with Vietnam such as members of ASEAN, Japan, China, India, Australia and New Zealand.

In order to be subject to the preferential rate and special preferential rate, imported goods must be supported by proper Certificates of Original (C/O) which reflect the source of goods.

Calculation

The dutiable value of import goods is calculated based on transaction value. In addition, goods are subject to Value Added Tax and Special Consumption Tax.

Business gets tax exemption in the following cases:

There are 20 categories of import duty exemption, including:

- Machinery & equipment, specialised means of transportation and construction materials (which cannot be produced in Vietnam) imported to make fixed assets for certain projects
- Raw materials, spare parts, accessories, other supplies, samples, machinery and equipment imported for the processing of goods for export and finished products imported for use in the processed goods;

Currently, enterprises manufacturing goods for export do not pay import duties on raw materials where the products are destined for export. However, where the enterprise does not, or is not expected to, export the finished product within 275 days the local Customs Department will charge temporary import duty on the raw materials. Penalties for late payment can apply. Where the enterprise then exports the finished product, a refund will be provided in proportion to the raw materials contained in the exports.

- Machinery, equipment, specialised means of transportation, materials (which cannot be produced in Vietnam), health and office equipment imported to use for oil and gas activities.

Export tax

The tax rate range is from 0% to 40% and is applied to goods from natural resources such as sand, chalk, marble, granite, ore, oil, forest products and metal scrap and so on. The price is calculated as FOB (Free on Board) delivered at the frontier price, excluding insurance cost (CIF).

Withholding tax

Withholding tax is applied to foreign organizations or individuals operating business in Vietnam without registering as a legal status and their income is earned in Vietnam (so called a contractor). This tax will apply to tax payments on the loan interest, royalties, license fees, leases from abroad, insurance/reinsurance, aviation fees, courier costs for payment foreign companies.

Calculation

There are three methods to calculate withholding tax as follows: deduction method, deemed method and hybrid method.

Method 1- Deduction method

A foreign contractor can apply VAT if it satisfies the following criteria:

- It has a permanent establishment or is tax resident in Vietnam;
- The duration of project is more than 183 days; and
- Compliance with the Vietnamese Accounting System

If a foreign contractor has many projects at the same time and one of them is qualified to apply the deduction method, then other projects must also be treated in the same manner. Foreign contractors will pay CIT of 25% on their net profit.

Method 2 - Deemed method

A foreign contractor who applies the deemed method will not register for VAT. VAT and CIT will be withheld by the Vietnamese contract party at a deemed percentage of taxable turnover. The VAT withheld will be known as deductible input VAT for businesses.

Method 3 - Hybrid method

Hybrid method allows foreign contractors to register for VAT and accordingly pay VAT based on the conventional method, but VAT is subject to a deemed rate. A foreign contractor may apply the hybrid method if satisfying the following criteria:

- They have a permanent establishment or are tax resident in Vietnam;
- The duration of project is more than 183 days; and
- Applying Vietnamese Accounting System.

Double Taxation Agreement

According to General Department of Taxation, the purpose of the agreement is to avoid duplicated taxation by: (a) exemption or reducing tax payable by residents of contractual countries in Vietnam; or (b) reducing the tax paid in contractual countries by residents in Vietnam from the amount payable in Vietnam. This agreement has formed a statutory frame for the mutual co-operation and support international tax management between the tax agencies of Vietnam and of the contractual nations with a view to prevent the evasion of taxes on income and assets.

List of countries with signed Double tax avoidance agreement with Vietnam:

No.	Country	Signing Date	Effective Date
1	Australia	13/10/1992 Hanoi	30/12/1992
2	France	10/02/1993 Hanoi	01/07/1994
3	Thailand	23/12/1992 Hanoi	29/12/1992
4	Russia	27/05/1993 Hanoi	21/03/1996
5	Sweden	24/03/1994 Stockholm	08/08/1994
6	Korea	20/05/1994 Hanoi	11/09/1994
7	United Kingdom	09/04/1994 Hanoi	15/12/1994
8	Singapore	02/03/1994 Hanoi	09/09/1994
9	India	07/09/1994 Hanoi	02/02/1995
10	Hungary	26/08/1994 Budapest	30/06/1995
11	Poland	31/08/1994 Warsaw	28/01/1995
12	Netherlands	24/01/1995 Hague	25/10/1995
13	China	17/05/1995 Beijing	18/10/1996
14	Denmark	31/05/1995 Copenhagen	24/04/1996
15	Norway	01/06/1995 Oslo	14/04/1996
16	Japan	24/10/1995 Hanoi	31/12/1995
17	Germany	16/11/1995 Hanoi	27/12/1996
18	Romania	08/07/1995 Hanoi	24/04/1996
19	Malaysia	07/09/1995 KualaLumpur	13/08/1996
20	Laos	14/01/1996 Vientiane	30/09/1996
21	Belgium	28/02/1996 Hanoi	25/06/1999
22	Luxembourg	04/03/1996 Hanoi	19/05/1998
23	Uzbekistan	28/03/1996 Hanoi	16/08/1996
24	Ukraine	08/04/1996 Hanoi	22/11/1996
25	Switzerland	06/05/1996 Hanoi	12/10/1997
26	Mongolia	09/05/1996 Ulan Bator	11/10/1996
27	Bulgaria	24/05/1996 Hanoi	04/10/1996
28	Italy	26/11/1996 Hanoi	20/02/1999
29	Belarus	24/04/1997 Hanoi	26/12/1997
30	Czech Republic	23/05/1997 Praha	03/02/1998
31	Canada	14/11/1997 Hanoi	16/12/1998
32	Indonesia	22/12/1997 Hanoi	10/02/1999
33	Taiwan	06/04/1998 Hanoi	06/05/1998
34	Algeria	06/12/1999 Algeria	Not effective
35	Myanmar (Burma)	12/05/2000 Yangon	12/08/2003
36	Finland	21/11/2001 Hensinki	26/12/2002
37	Philippines	14/11/2001 Manila	29/09/2003
38	Iceland	03/04/2002 Hanoi	27/12/2002
39	Korea Republic	03/05/2002 Pyong Yang	12/08/2007
40	Cuba	26/10/2002 La Havana	26/06/2003
41	Pakistan	25/03/2004 Islamabad	04/02/2005
42	Bangladesh	22/03/2004 Dhaka	19/08/2005
43	Spain	07/03/2005 Hanoi	22/12/2005
44	Seychelles	04/10/2005 Hanoi	07/07/2006
45	Sri Lanka	26/10/2005 Hanoi	28/09/2006
46	Egypt	06/03/2006 Cairo	Not effective
47	Brunei	16/08/2007 Bandar Seri Begawan	01/01/2009
48	Ireland	10/03/2008 Dublin	01/01/2009
49	Oman	18/04/2008 Hanoi	01/01/2009
50	Austria	02/06/2008 Vienna	01/01/2010
51	Slovak	27/10/2008 Hanoi	29/07/2009
52	Venezuela	20/11/2008 Caracas	26/05/2009
53	Morocco	24/11/2008 Hanoi	Not effective
54	Hong Kong	16/12/2008 Hanoi	12/08/2009
55	UAE	16/02/2009 Dubai	12/04/2010
56	Quatar	08/03/2009 Doha	16/03/2011
57	Kuwait	10/03/2009 Kuwait	11/02/2011
58	Israel	04/08/2009 Hanoi	24/12/2009
59	Saudi Arabia	10/04/2010 Riyadh	01/02/2011
60	Tunisia	13/04/2010 Tunis	Not effective
61	Mozambique	03/09/2010 Hanoi	Not effective
62	Kazakhstan	31/10/2011 Hanoi	Not effective

Agreement only applies to taxpayers who are residents of Vietnam or residents of the above countries.

The taxes to which the agreement applies are:

- Personal Income Tax
- Corporate Income Tax

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