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# *Doing Business Guide in Mongolia*

2012 - 2013



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## KEY STATISTICS

### *Mongolia*

<b>Total Area:</b>	1,564,116 sq. km
<b>Estimated Population:</b>	2,800, 100 (August 2012)
<b>Capital:</b>	Ulaanbaatar
<b>Languages:</b>	Mongolian (official language), Kazakh (in some parts of Mongolia)
<b>Neighboring States:</b>	Russia and China
<b>Currency:</b>	Mongol Tugrik (MNT)
<b>Exchange Rate:</b>	MNT 1,356= USD 1 (1 August 2012)

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## 1. MONGOLIA – A PROFILE

### 1.1 Introduction

#### *Geography and Climate*

Mongolia is a landlocked country in East and Central Asia. It borders Russia to the north and the People's Republic of China to the south, east and west. Although Mongolia does not share a border with Kazakhstan, its western-most point is only 38 kilometers (24 mi) from Kazakhstan's eastern tip.

At 1,564,116 square kilometers (603,909 sq mi), Mongolia is the 19th largest and the most sparsely populated independent country in the world, with a population of around 2.8 million people. It is also the world's second-largest landlocked country after Kazakhstan. The country contains very little arable land, as much of its area is covered by steppes, with mountains to the north and west and the Gobi Desert to the south.

The geography of Mongolia is varied with the Gobi Desert to the south and with cold and mountainous regions to the north and west. Much of Mongolia consists of steppes. The highest point in Mongolia is the Khuiten Peak in the Tavan bogd massif in the far west at 4,374 m (14,350 ft). The basin of the lake Uvs Nuur, shared with Tuva Republic in Russia, is a natural World Heritage Site. Most of the country is hot in the summer and extremely cold in the winter, with January averages dropping as low as  $-30^{\circ}\text{C}$  ( $-22.0^{\circ}\text{F}$ ).

The country is also subject to occasional harsh climatic conditions known as *zud*. Ulaanbaatar has the lowest average temperature of any national capital in the world. Mongolia is high, cold, and windy. It has an extreme continental climate with long, cold winters and short summers, during which most of its annual precipitation falls. The country averages 257 cloudless days a year, and it is usually at the center of a region of high atmospheric pressure. Precipitation is highest in the north (average of 200 to 350 millimeters (7.9 to 13.8 in) per year) and lowest in the south, which receives 100 to 200 millimeters (3.9 to 7.9 in) annually. The extreme south is the Gobi, some regions of which receive no precipitation at all in most years.

The name "Gobi" is a Mongol term for a desert steppe, which usually refers to a category of arid rangeland with insufficient vegetation to support marmots but with enough to support camels. Mongols distinguish Gobi from desert proper, although the distinction is not always apparent to outsiders unfamiliar with the Mongolian landscape. Gobi rangelands are fragile and are easily destroyed by overgrazing, which results in expansion of the true desert, a stony waste where not even Bactrian camels can survive.

#### *History*

Important prehistoric sites are the Paleolithic cave drawings of the Khoid Tsenkheriin Agui (Northern Cave of Blue) in Khovd Province and the Tsagaan Agui (White Cave) in Bayankhongor Province. A Neolithic farming settlement has been found in Dornod Province. Contemporary findings from western Mongolia include only temporary encampments of hunters and fishers. The population during the Copper Age has been described as paleomongolid in the East of what is now Mongolia, and as europid in the West.

In the second millennium B.C, during the Bronze Age, western Mongolia was under the influence of the Karasuk culture. Deer stones and the omnipresent keregsurens (small kurgans) probably are from this era; other theories date the deer stones as 7th or 8th centuries BCE. A vast iron-age burial complex from the 5th-3rd century, later also used by the Xiongnu, has been unearthed near Ulaangom.

Mongolia, since prehistoric times, has been inhabited by nomads who, from time to time, formed great confederations that rose to prominence. The first of these, the Xiongnu, were brought together to form a confederation by Modun Shanyu in 209 BC. Soon they emerged as the greatest threat to the Qin Dynasty, forcing the latter to construct the Great Wall of China, itself being guarded by up to almost 300,000 soldiers during Marshal Meng Tian's tenure, as a means of defense against the destructive Xiongnu raids.

After the decline of the Xiongnu, the Rouran, a close relative of the Mongols, came to power before being defeated by the Gokturks, who then dominated Mongolia for centuries. During the 7th and 8th centuries, they were succeeded by Uyghurs and then by the Khitans and Jurchens. By the 10th century, the country was divided into numerous tribes linked through transient alliances and involved in the old patterns of internal strife.

In the chaos of the late 12th century, a chieftain named Temujin finally succeeded in uniting the Mongol tribes between Manchuria and the Altai Mountains. In 1206, he took the title Genghis Khan, and waged a series of military campaigns - renowned for their brutality and ferocity - sweeping through much of Asia, and forming the Mongol Empire, the largest contiguous land empire in world history. Under his successors it stretched from present-day Poland in the west to Korea in the east, and from Siberia in the north to the Gulf of Oman and Vietnam in the south, covering some 33,000,000 square kilometers (13,000,000 sq mi) (22% of Earth's total land area) and having a population of over 100 million people.

After Genghis Khan's death, the empire was subdivided into four kingdoms or Khanates which eventually became quasi-independent after Mongke's death in 1259. One of the khanates, the "Great Khaanate", consisting of the Mongol homeland and China, became the Yuan Dynasty under Kublai Khan, the grandson of Genghis Khan. He set up his capital in present day Beijing but after more than a century of power, the Yuan was replaced by the Ming Dynasty in 1368, with the Mongol court fleeing to the north. As the Ming armies pursued the Mongols into their homeland, they successfully sacked and destroyed the Mongol capital Karakorum among other cities, wiping out the cultural progress that was achieved during the imperial period and thus throwing Mongolia back to anarchy.

The Mongols returned to their earlier pattern of constant internal conflict and occasional raids on the Chinese borderlands. In the 16th and 17th centuries, Mongolia came under the influence of Tibetan Buddhism. At the end of the 17th century, most of Mongolia had been incorporated into the area ruled by the Qing Dynasty. During the collapse of the Qing Dynasty in 1911, Mongolia declared independence, but had to struggle until 1921 to firmly establish *de facto* independence from the Republic of China, and until 1945 to gain international recognition.

Mongolia subsequently came under strong Russian and Soviet influence; in 1924, the Mongolian People's Republic was declared, and Mongolian politics began to follow the same patterns as the Soviet politics of the time. After the breakdown of communist regimes in Eastern Europe in late 1989, Mongolia saw its own Democratic Revolution in early 1990, which led to a multi-party system, a new constitution in 1992, and the (rather rough) transition to a market economy.



## 1.2 Government structure

### *Overview<sup>1</sup>*

Mongolia is a parliamentary republic. The parliament is elected by the people and in turn elects the government. The president is elected directly. Mongolia's constitution guarantees freedom of expression, religion, and others rights. Mongolia has a number of political parties, the biggest ones being the Mongolian People's Party (former Mongolian People's Revolutionary Party) and the Democratic Party (DP). Mongolian politics can be turbulent, with frequent changes in cabinet members and coalition partners.

### *The President<sup>2</sup>*

Mongolia's president has a largely symbolic role, but can block the Parliament's decisions through veto powers, which requires a two-thirds majority of parliament to override. Mongolia's constitution provides three requirements for taking office as president; the candidate must be a native-born Mongolian, be at least 45 years of age, and have resided in Mongolia for five years prior to taking office. The president is also required to formally resign his or her party membership.

### *The State Great Khural – the Parliament<sup>3</sup>*

Mongolia uses a unicameral parliamentary system in which the president has a symbolic role and the government exercises executive power. The legislative arm, the State Great Khural, has one chamber with 76 seats and is chaired by the speaker of the Parliament. It elects its members every four years by general elections.

### *Prime Minister and the Cabinet<sup>4</sup>*

The Prime Minister of Mongolia is appointed by the State Great Khural. The ministers of each of the Ministries constitute the prime minister's cabinet. The cabinet is nominated by the prime minister in consultation with the president and appointed by the State Great Khural.

### *Recent Politics*

The MPP (former MPRP) formed the government of the country from 1921 to 1996 (until 1990 in a one-party system) and from 2000 to 2004. From 2004 to 2006, it was part of a coalition with the DP and two other parties, and between 2006 and 2012 it was the dominant party in two further coalitions. The DP was the dominant force in the ruling coalition between 1996 and 2000, and also an approximately equal partner with the MPP (former MPRP) in the 2004-2012 coalition.

The last parliamentary elections were held in June 2012. The DP won 31 seats out of 76 resulting in the formation of a coalition with four smaller parties led by ex President Nambaryn Enkhbayar's MPRP. A new cabinet was then chosen, led by the DP Noroviin Altankhuyag as Prime Minister. The DP is expected to comprise 75% of the new cabinet.

A number of demonstrations took place in 2011 and 2012, prompted, among other things, by anger linked to the separating of MPRP from MP in 2011 and the corruption investigation and

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<sup>1</sup> Contributed by MahoneyLiotta LLC

<sup>2</sup> Contributed by MahoneyLiotta LLC

<sup>3</sup> Contributed by MahoneyLiotta LLC

<sup>4</sup> Contributed by MahoneyLiotta LLC



arrest of ex President Nambaryn Enkhbayar. However, the country's politics have generally been stable, and recent protests have been on a much smaller scale than, for example, those related to the 2008 election result.

The next parliament election will take place in the summer of 2016 and Presidential election will take place in the summer of next year.

### 1.3 Legal System

#### *Legislative Framework<sup>5</sup>*

The legal system of Mongolia has changed with the government since the democratic revolution of 1990 and is part of the Continental (Romano-Germanic) legal tradition. The core of Mongolian law is the Constitution that was enacted in 1992. The provisions of the Constitution, the laws corresponding to it, other regulatory legal acts, international treaties and other commitments of Mongolia as well as regulatory resolutions of Constitutional Court (Tsents) and the Supreme Court comprise the functioning law in Mongolia.

International treaties ratified by Mongolia have equal weight as its domestic laws and are directly implemented except in cases when the application of an international treaty requires the promulgation of a law. According to the Constitution of Mongolia, international treaties and other legal documents that contradict the Constitution should not be followed.

#### *Courts*

The court system of Mongolia includes the Supreme Court, regional courts and other courts, established by law (e.g. specialized by types of cases).

The Supreme Court of Mongolia is the highest court in the judiciary system of Mongolia. The Supreme Court hears appeals of lower court decisions as well as human rights cases referred to it by the Prosecutor General or the Constitutional Court of Mongolia. The Supreme Court interprets all Mongolian laws except for the Constitution, which is the province of the Constitutional Court.

#### *Judicial Administration*

Within the Judicial Administration, judges of the Supreme Court and other courts are appointed by the President of Mongolia. The nominations for judges are made from the Court's General Council, whereas those for judges of the Supreme Court should additionally be approved by the State Great Khural. The Supreme Court selects one of its members to be Chief Judge, whose appointment is made by the President for the six year term.

### 1.4 People

#### *Population*

Mongolia's total population according to the World Bank is 2,800,100. About 73 % of the total population is above 15 and 27% are under 14. Approximately 32% of the population is nomadic or semi-nomadic. Ulaanbaatar, the capital and largest city, is home to about 45% of the population.

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<sup>5</sup> Contributed by MahoneyLiotta LLC

Since the end of socialism, Mongolia has experienced a decline of total fertility rate (children per woman) that is steeper than in any other country in the world, according to recent UN estimations: in 1970-1975, fertility was estimated to be 7.33 children per woman, but in 2005-2010 it was 1.87 (4 times less).

Ethnic Mongols account for about 85% of the population and consist of Khalkha and other groups, all distinguished primarily by dialects of the Mongol language. The Khalkha make up 82.4% of the ethnic Mongol population. The remaining 17.6% include Buryats, Durbet Mongols and others in the north and Dariganga Mongols in the east. Turkic peoples (Kazakhs, Tuvas, and Chantuu (Uzbek) constitute 4.07% of Mongolia's population, and the rest are Tungusic peoples, Chinese, and Russians.

### *Religion*

According to the 2010 capitulation from National Statistics Office of Mongolia, 53% of Mongolia's population follows the Tibetan Buddhism, 38.6% are listed as having no religion 5.4% are Shamanist, Bahá'í and Christian, and 3% are Muslim.

Various forms of Shamanism have been widely practiced throughout the history of what is now modern day Mongolia; as such beliefs were common among nomadic people in Asian history. Such beliefs gradually gave way to Tibetan Buddhism, but Shamanism has left a mark on Mongolian religious culture, and continues to be practiced. Amongst the Mongol elite of the Mongol Empire, Islam was generally favored over other religions, as three of the four major khanates adopted Islam.

Throughout much of the 20th century, the communist government ensured that the religious practices of the Mongolian people were largely repressed. Khorloogiin Choibalsan complied with the orders of Joseph Stalin, destroying almost all of Mongolia's over 700 Buddhist monasteries and killing thousands of monks. The number of Buddhist monks dropped from 100,000 in 1924 to 110 in 1990.

The fall of communism in 1990 restored the legality of public religious practice, and Tibetan Buddhism, which had been the predominant religion in the region before the rise of communism; again rose to become the most widely practiced religion in Mongolia. The end of religious repression in the 1990s also allowed for other religions, such as Islam, Baha'i Faith and Christianity, to spread in the country. According to the Christian missionary group Barnabas Fund, the number of Christians grew from just four in 1989 to around 41,117 as of 2008.

### *Languages*

The official language of Mongolia is Khalkha Mongolian, and is spoken by 82.4% of the population. A variety of different dialects are spoken across the country. These dialects are included in the Mongolic languages. Mongolic is frequently included in the Altaic languages, a group of languages named after the Altay Mountains that also includes the Turkic and Tungusic languages.

Today, Mongolian is written using the Cyrillic alphabet, although in the past it was written using the Mongolian script. An official reintroduction of the old script was planned for 1994, but has not yet taken place as older generations' encountered practical difficulties. The traditional alphabet is being slowly reintroduced through schools.

In the west of the country, the Kazakh and Tuvan languages, among others, are also spoken. The Russian language is the most frequently spoken foreign language in Mongolia, followed

by English, though English has been gradually replacing Russian as the second language. Korean has gained popularity as tens of thousands of Mongolians work in South Korea. Interest in Chinese, as the language of the other neighboring power, has been growing. Japanese is also popular among the younger people. A number of older educated Mongolians speak some German, as they studied in the former East Germany, while a few speak other languages from the former Eastern Bloc. Some younger Mongolians are fluent in the Western European languages as they study or work in foreign countries including Germany, France and Italy.

### *Education*

During the state socialist period, education was one of the areas of significant achievement in Mongolia. Illiteracy was virtually eliminated, in part through the use of seasonal boarding schools for children of nomadic families. Funding to these boarding schools was cut in the 1990s, contributing to slightly increased illiteracy.

Primary and secondary education formerly lasted 10 years, but was expanded to 11 years. Since the 2008-2009 school years, new first graders are using the 12 year system. As such, full transition to the 12-year system will not happen until the 2019-2020 school year, when the current first graders graduate.

Mongolian national universities are all spin-offs from the National University of Mongolia and the Mongolian University of Science and Technology.

The broad liberalization of the 1990s led to a boom in private institutions of higher education although there is a wide range in their quality.

### *Living Standards*

With a Human Development Index (HDI) of 0.653 out of 1.000, Mongolia has a rank of 110<sup>th</sup> among 187 countries (improved from 115<sup>th</sup> in the previous year), compared to Russia's HDI of 0.755 and China's of 0.687. Between 2000 and 2010 Mongolia's HDI rose by almost 1.7% annually, reflecting the progressive growth of the index in most regions of the world. Each year UNDP's Human Development Report publishes the human development index (HDI) which looks beyond GDP to a broader definition of well-being. By looking at some of the most fundamental aspects of people's lives and opportunities the HDI provides a much more complete picture of a country's development than other indicators, such as GDP per capita.

The living standards in Mongolia are, however, not the same across the population and the country. According to the UNDP's data, the poverty level of the rural population (43%) tends to be much higher than that of the urban population (30%) while around 22% of the Mongolia's population lives on \$1 or less a day.

## **1.5 Economy**

### *General Overview*

Mongolia's currency, the tugrik, fell sharply against the US dollar following a fall in commodity prices in late 2008, and has experienced continued ups and downs since then on. By the beginning of August 2012 the exchange rate had reached USD 1: MNT 1,356, compared with USD 1: MNT 1,253 in August 2011 and USD 1: MNT 1,532 at the end of February 2009, when the currency was at its weakest.

The strengthening of the exchange rate is largely related to the rebound in copper and gold prices since early 2009. The stabilisation of the exchange rate has allowed the Central Bank of Mongolia (the central bank) to continue the process of rebuilding the country's foreign-exchange reserves, which fell sharply in early 2009 as the central bank tried to support the currency by selling its reserves of foreign currency. By June 2011, total foreign-exchange reserves had recovered to around USD 2.5bn, double that of 2009.

The economy grew by 6.1% in 2010 following a contraction of 1.3% in 2009. The last quarter of 2010 ended with a broad-based recovery, supported by transportation and construction. On a 12-month rolling basis, the budget surplus increased to 2.4% of GDP in March 2011, up from a 5% deficit in March 2010. The 2011 budget of Mongolia predicts a steep increase in government spending to an un-precedented 779 billion MNT, equal to 52% of GDP, according to the World Bank.

Furthermore, imports increased to record levels of 86%, widening the trade deficit to US\$ 646 million, whereas exports went up to 71%. This was supported by the upward drive in metal prices and large coal and copper imports by China, who absorbs 90% of Mongolia's exports.

### *Transportation*

Mongolia has a number of domestic airports. The only international airport is the Chinggis Khaan International Airport in Ulaanbaatar. Direct flight connections exist between Mongolia and South Korea, China, Japan, Russia, Germany and Turkey. MIAT is Mongolia's largest carrier in Mongolia and provides both domestic and international flights.

The Trans-Mongolian Railway is the main rail link between Mongolia and its neighbors. It begins at the Trans-Siberian Railway in Russia at the town of Ulan Ude, crosses into Mongolia, runs through Ulaanbaatar and then passes into China at Erenhot where it joins the Chinese railway system. A separate railroad link connects the eastern city of Choibalsan with the Trans-Siberian Railway; however, that link is closed to passengers after the Mongolian town of Chuluunkhoroot.

Most overland roads in Mongolia are only gravel roads or simple cross-country tracks. There are paved roads from Ulaanbaatar to the Russian and Chinese border and from Darkhan to Bulgan. Some road construction projects are currently underway and some have already been completed—for example, construction of the east–west so-called Millennium Road.

### *Telecommunications*

Mongolia's telephone network is improving with international direct dialing available in many areas. A fiber-optic network has been installed that is improving broadband and communication services between major urban centers with multiple companies providing inter-city fiber-optic cable services. The fixed-line telephone system has a very low teledensity with a decreasing number of main lines. There were around 141,000 lines in use by the end of 2009, a 7% drop compared to the preceding year. In contrast, the mobile phone subscribership serviced by four providers is increasing rapidly reaching 2.2 million in 2009. According to the National Statistics Office, every soum (administrative unit in Mongolia) is now covered by cellular service.

Expansion of Internet use has been limited by the relatively low ownership of computers in Mongolia. Most users access the Internet at public or work facilities. Usage is concentrated in Ulaanbaatar. In 2010, 709,625 (25.7%) people were using the Internet.

## 1.6 Foreign Trade

In 2011, Mongolia's exports and imports increased by 2% and 63% respectively compared to the corresponding amounts in 2010, thereby increasing the country's trade deficit by 7.4%. The main export commodities were copper concentrates 25.9%, coal 35.7%, iron ore 9.2%, crude oil 5.5%, raw cashmere 5.2%, zinc ore concentrates 4.1%, gold 3.4%, fluorspar ore concentrates 2.0%, molybdenum ore concentrates 1.3% and others 6.9%.

Mongolia's imports are dominated by mineral products (most of which are oil products), machinery and equipment as well as transport vehicles. Imports from Russia are largest, followed by China and South Korea.

## 1.7 Mining in Mongolia<sup>6</sup>

Mongolia has rich mineral resources and exploitation of these has been increasing in the transition period to the market economy

### *Strategic Deposits<sup>7</sup>*

By definition of the Law on Minerals, mineral resources naturally occurring on and under the earth's surface in Mongolia are the property of the State. Therefore, the State, as the owner, has the right to grant exploration and mining rights.

The State also has the right to own a certain percentage in a mineral deposit of strategic importance (a deposit which may have a potential impact on national security, national or regional economic or social development or that is producing or has the potential to produce more than 5% of the total annual gross domestic product). If the deposit qualifies as a mineral deposit of strategic importance then the State may acquire a certain percentage as follows. The State may participate up to 50% jointly with a private legal person in the exploitation of a mineral deposit of strategic importance where the State can prove that it has conducted State funded exploration and that the State funded exploration was used to determine the proven reserves. However, the legislation does not prescribe what form this equity interest might take and it is unclear what the drafters mean by "participate". The percentage of the State share shall be determined by an agreement on exploitation of the deposit considering the amount of investment made by the State. The State may own up to 34% of the shares of an investment to be made by a licenseholder in a mineral deposit of strategic importance where proven reserves were determined through funding sources other than the State budget (non-State funded exploration of a strategic deposit). The percentage of the State share shall be determined by an agreement on exploitation of the deposit considering the amount of investment made by the State.

Exploration	Exploitation
State funded exploration of a strategic deposit where reserves are determined by the State funded exploration	State may have up to 50% participation interest
Non-state funded exploration of a strategic deposit where the reserves are determined by other means	State may own up to 34% of shares of an investment

<sup>6</sup> Contributed by MahoneyLiotta LLC

<sup>7</sup> Contributed by MahoneyLiotta LLC

The Mongolian government has identified a number of the largest deposits that have strategic importance for the country and where development of the mining industry should be focused. Currently, fifteen (15) deposits that have been classified as “Strategic Deposits” (shown in the table below). These are currently held either by the State Property Committee, through established state-owned enterprises (SOEs), or in some cases by the private sector. There are an additional thirty-nine (39) deposits under consideration for classification as “Strategic Deposits.”

## DEPOSITS OF STRATEGIC IMPORTANCE



### LIST OF STRATEGIC DEPOSITS

No	Deposit name	Type of Mineral	Location	Reserves & Resources
1	Tavan Tolgoi	Fossil coal	Umnugobi, Tsogttsetsii	6420 million tonnes coal
2	Nariin Sukhait	Fossil coal	Umnugobi, Gurvantes	125.5 million tonnes coal
3	Baganuur	Brown coal	Ulaanbaatar, Baganuur	600 million tonnes coal
4	Shivee Ovoo	Brown coal	Gobisumber, ShiveeGobi	646.2 million tonnes coal
5	Mardai	Uranium	Dornod, Dashbalbar	1104 tonnes at 0.119% $U_3O_8$
6	Dornod	Uranium	Dornod, Dashbalbar	28868 tonnes at 0.175% $U_3O_8$

7	Gurvan Bulag	Uranium	Dornod, Dashbalbar	16073 tonnes at 0.152% U <sub>3</sub> O <sub>8</sub>
8	Tomortei	Iron	Selenge, Khuder	229.3 million tonnes at 51.15% Fe
9	Oyu Tolgoi	Copper, Gold	Umnugobi, Khanbogd	2.7 billion tonnes of ore, 25.4 million tonnes of copper, 1028 tonnes of gold
10	Tsagaan suvarga	Copper, molybdenum	Dornogobi, Mandakh	10.64 million tonnes oxides at 0.42% Cu and 0.011% Mo, 240.1 million tonnes sulphides at 0.53% Cu and 0.018% Mo
11	Erdenet	Copper, molybdenum	Orkhon, Bayan-ondor	1.2 billion tonnes at 0.51% Cu and 0.012% Mo
12	Burenkhaan	Phosphor	Khubsugul, Alag-Erdene	192.24 million tonnes at 21.1% P <sub>2</sub> O <sub>5</sub>
13	Boroo	Gold	Selenge, Bayangol	24.5 thousand tonnes at 1.6g/tonn Au
14	Tomortein Ovoo	Zinc	Sukhbaatar, Sukhbaatar	7.7 million tonnes at 11.5% Zn
15	Asgat	Silver	Bayan-Ulgii, Nogoonuur	6.4 million tonnes at 351.08g/tonn Ag

## 2. BUSINESS ENVIRONMENT

### 2.1 Business Climate

Mongolia is continuing to develop its systems of business law, taxation, banking, and external links to the international business community and, most importantly, a market economy. Entering Mongolia presents, however, a unique challenge to business people when attempting to assess real business risks and to make reality-based decisions rather than relying on perceptions. Abundant natural resource wealth and agricultural production make Mongolia's population one of the potentially richest countries per capita in the region. However, converting this potential into reality requires many critical factors to function in concert. Attracting and protecting investors is among the most critical of these factors.

The question will be whether Mongolia's legal and business infrastructure will be able to keep pace with the demands inherent to investment development. Mongolia has successfully introduced concepts of property ownership, human rights, environmental protection and investment protection. In so doing, Mongolia has taken a giant step in meeting these development needs. New laws that appear to be consistent with the intent of the constitution are frequently drafted and adopted. However, a number of operational regulations and legal practices are based on or derived from the pre-1990 period.

Despite the recent global crisis and recent political events in the region, foreign investors are focusing more closely on Central Asia as a whole.

Investors whether multinational mining companies or small trading companies, continue to weigh the risks associated with Mongolia investments and are mindful of the impact that a fluctuating commodity price, like copper and coal, can have on this emerging economy that depends heavily on its natural resources.



## 2.2. Free Trade Zones

The Mongolian government launched its free trade zone (FTZ) program in 2004. Currently there are two FTZ areas located along the Mongolia spur of the trans-Siberian highway: one in the north at the Russia-Mongolia border town of Altanbulag and the other in the south at the Chinese-Mongolia border at the town of Zamyn-Uud. The port of entry of Tsagaan Nuur in Bayan-Olgii province is being developed as the site of a third FTZ.

## 2.3 International Agreements<sup>8</sup>

Mongolia is a party to many international treaties in various areas – from the protection of the environment to free trade, the protection of foreign investments and the avoidance of double taxation. Notably, it ratified a number of basic international conventions – the Treaty on the Civil and Political Rights (New York, 1966) and the Treaty on Economical, Social and Cultural Rights (New York, 1966). Mongolia has been a member of the WTO since 1997. Mongolian legislation recognizes the primacy of International Treaties in case of a conflict with domestic legislation.

With respect to foreign investment, Mongolia is a signatory to the Washington Convention on the Settlement of Investment Disputes between the State and National of Another State (1965, joined in 1996), which provides for the settlement of international investment disputes. It is also a signatory to the Seoul Convention on Investment Insurance (1985, joined 1999) and has been a member of the Multilateral Investment Guarantee Agency (MIGA) since 1999, which ensures the eligibility of foreign investors for risk insurance through MIGA.

Mongolia has negotiated bilateral agreements with numerous countries. Encouraging and Mutual Protection of Investment Agreements have been negotiated with 39 countries and Exemption on Double Taxation Agreements have been negotiated with 34 countries.

## 2.4 Legal Environment<sup>9</sup>

The Mongolian legal system is based on the Roman-German (continental) legal system. The principal legal act is the Constitution (1992). In many cases, laws are worded widely or vaguely leaving latitude for alternative interpretations.

State bodies can issue regulations, some of which are considered as regulatory legal acts. Authorities applying regulations are generally reluctant in applying more general provisions stipulated by laws and are more comfortable in applying more detailed/specific regulations.

The Arbitration Law of 2003 regulates arbitration disputes. In the drafting of contracts in Mongolia, in most cases parties are free to select international arbitration as the method for the resolution of disputes of certain types of international trade, contractual and non-contractual civil disputes. Mongolia is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), which mandates that arbitration awards made within the Territory of Mongolia are enforceable in Mongolia and other countries that are parties to the New York Convention.

The Arbitration Bureau operated by the Mongolian National Chamber of Commerce and Industry, is sometimes regarded by Mongolian business people and government agencies that deal with foreign investors as politically not independent and unfamiliar with commercial practices, prompting a preference for international arbitration. However, support for binding

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international arbitration has not penetrated local Mongolian agencies responsible for executing judgments.

## **2.5 Regulations for Business<sup>10</sup>**

### *Foreign Currency Regime*

The Mongolian government employs a limited regulatory regime for controlling foreign exchange for investment remittances and maintains exceptionally liberal policies for these transactions. Though typically there is no difficulty in obtaining foreign exchange, whether the investor wants Chinese Renminbi, Euros, British Pounds, Rubles, or U.S. Dollars, there are times when limits arise based on the availability of foreign currency in the Mongolian marketplace.

In regards to domestic transactions, in 2009 the Parliament of Mongolia enacted legislation mandating that local transactions be expressed and settled only in the local currency. As a result, all domestic transactions must be conducted in Mongolia's national currency, the Tugrik, except those entities allowed specific waivers as determined by the Central Bank of Mongolia and the Financial Regulatory Commission.

The Mongolian government wants funds to flow easily in and out of the nation, with one exception. Foreign-held interest bearing dollar accounts remain subject to a 20% withholding tax, unless the term is reduced pursuant to an applicable tax treaty. The bank retains 20% of all such interest payments sent abroad, and remits this withholding to the Tax Authority of Mongolia. Otherwise, businesses report no delays in remitting investment returns or receiving in-bound funds. Most transfers occur within 1-3 business days or at most a single business week.

Ease of transfer aside, foreign investors criticize Mongolia's lack of sophisticated mechanisms for converting currencies and parking money. Letters of credit are difficult to obtain, and legal parallel markets do not exist in the form of government dollar denominated bonds or other instruments for parking funds in lieu of payment. Many Mongolian financial institutions lack experience with these arrangements.

### *Competition Law*

The first Law on Prohibiting Unfair Competition was passed in 1993 and on June 10, 2010 the Parliament approved the amended Law "On Competition".

The purpose of this Law is to provide conditions for fair market competition among entrepreneurs, to prevent and prohibit any activities that allow market domination and lessen competition, to determine the legal basis for the competition regulatory authority and to regulate the relations among them.

It should be noted that the ability for Mongolia to engage with and confront complex anti-trust issues and competition cases is limited due the lack of relevant skills and knowledge of its professionals.

### *Intellectual Property*

Mongolia has joined the World Intellectual Property Organization (WIPO) and signed and ratified most treaties and conventions, including the WTO TRIPS agreement. The WIPO

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Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), collectively known as The WIPO Internet Treaties, were signed and subsequently ratified on July 25, 2002.

Under TRIPS and Mongolian law, the Mongolian Customs Authority and the Economic Crimes Unit of the National Police (ECU) also have an obligation to protect Intellectual Property Rights (IPRs). The Mongolian Customs Authority may deny the entry of goods having disputed IPRs at the board, based on a petition by the owner of the relevant IPRs. The ECU has the exclusive power to conduct criminal investigations and bring criminal charges against IPR pirates. The IPOM has the administrative authority to investigate and seize fakes without a court order. Of these three, the IPOM makes the most consistent good faith effort to fulfill its mandates.

### *Consumer Protection*

The protection of consumers is governed by the Law "On the Protection of Consumer Rights", initially adopted in 1991 and amended in 2003. This law regulates the relationship between consumers and vendors or providers of work and services, and establishes rights and obligations. As per the law, consumers have the following primary rights to enjoy the high quality and safety of goods and services, to acquire product information and to get compensated for losses and damages due to producer and vendor faults.

### *Company Law*

In late 2011 Parliament replaced the 2009 Company Law. When compared with the 2009 Company Law, the 2011 Company Law provides for greater personal liability of governing persons, administrative sanctions for non-compliance, greater corporate governance regulations and introduces closed venture companies. This provides for reorganization through merger, consolidation, separation, division, transformation.

## **2.6 Property Market**

Office space in Ulaanbaatar remains considerably cheaper than in the neighboring countries although there are an increasing number of new buildings that offer A Class office space.

Renting an apartment costs anywhere from USD 500 a month for a reasonable two-room apartment in the suburbs to as much as one is willing to pay for a five to six-room flat fully furnished (with local or foreign furniture) in the city's centre. It is important to confirm that the person renting the property has its legal title and, therefore, the right to lease the apartment. In addition, proper identification and a simple lease agreement in Mongolian and English should be obtained. Leases, at a very minimum, should state the terms of renting the property and should form the basis for a working relationship and understanding with a landlord. In some arrangements, the landlord agrees to cover utilities charges (except international phone charges) and to carry out basic repairs.

Foreigners are entitled to own buildings in Mongolia but not land. Landlords are unwilling to consider rental periods of less than three months, especially for residential accommodation. There are a number of real-estate agencies that can offer assistance in this and other areas for a reasonable fee.

Activities associated with land usage and ownership are regulated by the Land Law of 2002.

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### **3. FOREIGN INVESTMENT**

#### **3.1 Foreign Investment <sup>11</sup>**

The Law on Foreign Investment of 1993 was designed to encourage foreign investment, to protect the rights and assets of foreign investors in Mongolia, and to regulate matters relating to the foreign investment. It also sets out the provisions for tax stability agreements for investing entities.

In general, Mongolian law does not discriminate against foreign investors. Foreigners may invest with as little as USD 100,000 cash or the equivalent value of capital material (office stock, structures, autos, etc.). In both law and practice, foreigners may own 100% of any registered business (except in the areas of strategic importance as detailed below) with absolutely no legal, regulatory, or administrative requirement to take on any Mongolian entity as a joint venture partner, shareholder, or agent.

Prior to 2012, there was only one restriction on foreign ownership of shares. Pursuant to the Water Law, only wholly owned Mongolian entities may obtain licenses to conduct activities such as the exploration and research of water resources. However, 2009 and 2012 regulatory and legislative acts in the areas of foreign investment, environmental law, taxation, and mineral rights effectively narrow Mongolia's openness to FDI. While most Mongolian industrial and economic strategies do not discriminate actively or passively for or against foreign investors, specific governmental acts regarding foreign involvement in sectors of strategic importance and in Mongolia's nascent uranium sector have spurred criticism that the government is curtailing the rights of foreign investors in favor of the Mongolian state. There is concern that changes to the uranium law have created a precedent for further restrictions on FDI.

Shortly before the June 2012 elections, Parliament was put under pressure to enact legislation with respect to foreign direct investment in business entities within certain sectors. In May 2012 Parliament enacted the Law of Mongolia on the Regulation of Foreign Investment in Business Entities Operating in Sectors of Strategic Importance (SEFIL). The SEFIL regulates investment by foreign investors, their affiliated entities or third parties in sectors of strategic importance: minerals; banking and finance; and media and communications. Additional sectors may be added on a case-by-case basis. The SEFIL is more broadly applied with respect to state owned legal entities, entities with state ownership, international organizations, their affiliated entities or third parties. Further, they are regulated even outside of sectors of strategic importance if they choose to "operate" in Mongolia or invest into businesses, affiliated entities or third parties carrying out business operations in Mongolia.

The hasty drafting of the SEFIL has led to much confusion over its substantive and procedural requirements, as well as its overall enforceability and impact on the foreign investment community. Key concerns with the SEFIL include, the timing for approval of transactions with foreign investment; the negative impact on publically listed companies or companies preparing to list either inside or outside Mongolia; limitations on obtaining financing; the effective lock-up on the Mongolian party; its failure to clearly address collective foreign investment and the potential for the SEFIL to be a gateway to the wholesale bar of certain foreign investors.

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<sup>11</sup> Contributed by MahoneyLiotta LLC

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## 4. BANKING AND FINANCE

### 4.1 Banking System

Since 1991 Mongolia has had a two-tier banking system. The Bank of Mongolia is the central bank of Mongolia and represents the upper (first) tier of the banking system of Mongolia. All other banks represent the lower (second) tier of the banking system.

The Bank of Mongolia formulates and implements monetary policy by regulating money supply through changes in reserve money to achieve its main objective of currency stability, according to the Central Bank Law of 1996. The BOM has focused on price and exchange rate stability, while ensuring adequate money supply.

The Bank of Mongolia is not guided by the aim of earning profit in performing its tasks.

The Bank of Mongolia headed by a Governor appointed by the Parliament for a term of up to six years. The Governor of the Bank of Mongolia is accountable to the Parliament.

The banking sector of Mongolia is highly concentrated with the three largest commercial banks (Khan Bank, Golomt Bank, and Trade and Development Bank) representing more than 80% of total assets (amounting to approximately USD 7.7 billion as of 30 June 2012). The banking sector has been one of the most attractive sectors for foreign investors in recent years and has attracted considerable investor interest from Japan, the USA, Russia and other countries. Though most of the major banks are financed in part by foreign investors at present only two foreign banks have representative offices in Mongolia: ING and Standard Chartered Bank.

Based on regulations adopted during 2011, the minimum capital requirement for commercial banks has increased from MNT 8 billion (approximately USD 6 million) to MNT 16 billion (approximately USD 12 million). This requirement is effective 1 May 2013. Foreign banks may establish local subsidiaries no earlier than one year after the establishment of their Mongolian representative offices. Further, the minimum share capital requirement for a Mongolian subsidiary of a foreign bank is set at USD 50 million. As a result, consolidation of the banking sector is expected in the following years.

The largest commercial banks are rated by the international rating agencies and have plans for IPOs in the following years. Bond issues are expected to be a first step for establishing reputation on the international market before proceeding with IPOs.

The profitability of banks is high compared to most advanced countries. Risk aversion of banking sector is relatively high, though it has been gradually reducing. Investments in financial instruments are not sophisticated and a significant portion of assets relate to the investment in cash and bills issued by the Central Bank or other instruments guaranteed by the Government of Mongolia.

The banking sector was affected by the financial crisis during 2009, which led to problems in recoverability of loans and a significant increase in impairment provision rates. Confidence in the banking sector has been improving since then and resulted in a rapid growth of total assets by 50.1% in 2011, which was mainly invested in growing the loan portfolio. The growth was substantially financed by inflows of both domestic and foreign currency deposits, which was fueled by the development of Mongolia's mineral resources. The growth of deposits and

lending slowed down during the first half of 2012, though growth rates in total assets and lending is still relatively high. At present the main factor hindering the growth of banking sector is the lack of capital (particularly Tier I) or other financial sources. In the light of upcoming large scale mining, infrastructure and housing projects, and the demand for liquidity it creates, the Mongolian banks are currently undercapitalized. Compared to other emerging markets, Mongolia has relatively low Tier 1 capital buffers. The ratio of non-performing loans (NPLs) to gross loans has been significantly reduced (4% in April 2012 compared to 8% a year ago). However, this improvement is mainly result of the rapid growth of loan portfolios. High rates of lending growth over the past year have raised concerns about the quality of bank assets, particularly taking into consideration that internal risk management procedures and corporate governance are in developing stage.

#### **4.2 Foreign Currency Market and Foreign Currency Rules**

Mongolia issued its first national currency, the Tugrik, in 1925, based on a resolution issued by the Bank of Mongolia on February 22, 1925.

According to Mongolian legislation, transactions between Mongolia legal entities should be in Tugrik. Alternatively, transactions between a Mongolian legal entity and a foreign legal entity can be denominated in any currency. This was enacted on July 9, 2009 in the Law of Mongolia on Conducting Settlement in National Currency.

#### **4.3 Investment Institutions<sup>12</sup>**

The National Investment Bank of Mongolia (NIBank) was established in 2006 and was the first formal investment institution in Mongolia with joint investments from Mongolia, Japan and the USA. Its services include both commercial and investment banking products.

In May 2011, the Mongolian government officially launched the Development Bank of Mongolia, a state-owned policy bank with a mandate to provide medium and long-term loans to the strategically important sectors (such as infrastructure, industry, energy etc.). The bank's role is also expanding cooperation with the international development banks and organizations, and attracting domestic and foreign capital for large scale priority projects that help to accelerate the economic growth of Mongolia. In March 2012, the bank successfully placed 5-year USD 580 million sovereign-guaranteed notes to international investors under the Euro Medium Term Note Programme. The note issue is fully guaranteed by the Mongolian government and is rated B1 by Moody's and BB- by S&P, equal to Mongolia's credit rating. The notes were placed at 5.75% to 6.0% p.a. below the initial guidance due to high demand.

There are several mechanisms through which incentives to investors are offered, in the form of investment agreements (under either the Foreign Investment Law or the Minerals Law), which are mainly for tax stability, and the Concessions Law, which provides for tax concessions in priority sectors of the Mongolian economy.

#### **4.4 Capital Markets<sup>13</sup>**

The Mongolian Stock Exchange (MSE) was established in 1991 as a vehicle to implement the government's plan for privatization of large state-owned enterprises. In an attempt to ensure an equitable distribution of assets, the Mongolian government chose to initiate a voucher-based scheme; one blue voucher worth MNT 7,000 was issued to every citizen born before 31 May 1991 for the purchase of shares in large enterprises and red vouchers worth MNT 3,000,

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<sup>12</sup> Contributed by MahoneyLiotta LLC

<sup>13</sup> Contributed by MahoneyLiotta LLC

which could be used to purchase assets in smaller enterprises not listed on the exchange. Auctions officially began on February 7, 1992.

During this first phase, trading was only open for two hours, one day per week. In 1995, parliament passed the 'Law on Securities', allowing the MSE to operate as a regular stock exchange open to both domestic and foreign investors. This also established the two tiered exchange with the primary market for IPOs and the secondary market for subsequent trading. Trading is now open between 11.00 and 13.00 every weekday for the both primary and secondary markets. Trading can also be done over the internet.

The revision to the Securities and Exchange Law adopted by the Parliament in December 2002, transformed MSE into a 100 per cent state owned company. The MSE signed 'memoranda of understanding' with the Korean, Singaporean and Hong Kong Stock Exchanges, to help with its development and attract more foreign investment. In April 2011, the MSE formally agreed to a partnership with the London Stock Exchange (LSE) aimed at transforming MSE to operate on an international scale. The partnership agreement provides for the development of systems infrastructure, the support of senior experienced people to manage the transformation and skills and policy development. The intention is to increase the ability to trade and to make it an attractive option for Mongolian companies and overseas investors. There are currently around 410 companies listed on the MSE, over one-fifth of which are involved in mining, the most common sector for foreign investment. As of yet there is no restriction on foreign ownership of shares, although in the uranium sector, for example, ownership must be approved by the Nuclear Energy Agency, which could in theory refuse the transfer of shares to a foreign entity. In accordance with the partnership agreement, MSE has launched new trade and payment system in cooperation with London Stock Exchange in July 2012.

#### 4.5 Insurance sector

Insurance activities in Mongolia are regulated by the Insurance Law of Mongolia, which was approved in 2004 and updated in 2005. Under this law, the Financial Regulatory Commission of Mongolia (FRC) is responsible for regulating insurance companies through its adoption of regulations and issuing insurance licenses, as well as for supervising insurance companies operating in Mongolia. Under the current law, companies registered in Mongolia are not allowed to enter into insurance contracts with insurance companies that have not obtained a license from the FRC, including foreign insurance companies, unless FRC approval is obtained. At present the regulatory minimum share capital is MNT 1 billion (approximately USD 750 thousand), increasing to MNT 2 billion (approximately USD 1,5 million) from 1 January 2013.

The Mongolian insurance market is at an early stage of development with insurance penetration (premium income as a share of GDP) of only 0.5%, though it is growing at fast rate. In the last five years total assets have more than tripled, whilst the gross written premium has doubled. At present the insurance sector consists of 17 insurance companies: 16 general insurance and one life insurance company. The top five largest insurance companies represent more than 70% of gross written premium. The majority of insurance products cover property and liability insurance. As the size and financial strength of Mongolian insurance companies is limited, high risk and high value insurance policies are usually reinsured with international reinsurance companies.

Mining sector growth is expected to be the key driving force behind the expansion of the Mongolian insurance industry. Workers, equipment, infrastructure, and mines themselves will all need to be covered as projects become operational. Further, legislation mandating that every driver within the country must be insured by 1 October 2012 was introduced in 2011. This is estimated to result in a 30% increase in the size of the insurance market. Rapid expansion planned for the following years, however, necessitates further improvements in



capital management, as well as insurance and financial risk management and other internal process of insurance companies.

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## 5. IMPORTING AND EXPORTING<sup>14</sup>

### 5.1 Trends in Customs Policy

Several ministries and agencies, in consultation with representatives of the private sector, are involved in the formulation and implementation of trade policies. The Ministry of Industry and Trade is the main government agency responsible with monitoring and in particular it's Trade Policy and Cooperation Department is responsible for coordinating trade policy. The Ministry is also responsible for all issues related to trade promotion, trade facilitation and export development. Import and export activities are regulated by the Customs Law of 2008.

In 1991, Mongolia became a member of the Customs Co-operation Council, which changed its name to the World Customs Organization in 1994. Since January 1, 2003, Mongolia has used the harmonized commodity description and coding system (HS 2002) at an eight digit level. As a WTO member, Mongolia may offer most favored nation (MFN) treatment to imports from all trading partners, including non-WTO members.

### 5.2 Import Restrictions

No approval is required to import goods into Mongolia, but the importer must be registered with the tax authorities and the State Registry Office. Imports to Mongolia are not subject to restriction, with the exception of import licensing, which applies to only a few products, as well as other products subject to import prohibition.

Pursuant to a series of government resolutions, in general, the limited licensing system in place is for the protection of human health, animal and plant health and safeguarding national security. Import licenses are required for imports of certain products, including chemicals, human blood and organs, explosives and guns. Import licenses for restricted products are issued by the sectoral ministries, such as the Ministry of Environment, Ministry of Education, Culture and Science, Ministry of Food and Agriculture and the Ministry of Health.

Products prohibited for import into Mongolia include certain drugs, narcotics and spirits.

### 5.3 Customs Duties

Custom duties must be paid following the completion of the final customs clearance. Under the Customs Tariff Law of 2008, Mongolia's customs tariffs consist of general, most favored nation (MFN) bound and applied. Customs tariffs are calculated ad valorem on c.i.f. values of imports. An *ad valorem* MFN tariff rate of 5 per cent is applied to most imported goods. However, a zero tariff rate is applied to 49 other tariff lines, including live animals for breeding, horses, cows, pigs, sheep, goats, information dissemination equipment and its spare parts, other machines for information development, transistor diodes and similar transistors and various medical equipment. A seasonal import duty rate of 15 per cent is applied on flour and vegetables to protect domestic producers between 1 August and 1 April. Outside of this period the rate is 5 per cent. Mongolia bound all its tariffs at 20 per cent for most tariff lines.

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<sup>14</sup> Contributed by MahoneyLiotta LLC

The range of applied MFN rates is zero to 15 per cent. Mongolia does not grant any preferential tariffs.

The tax base is the price determined by Customs in conformity with the Custom Tariff Law, plus customs duty, excise tax, and other taxes.

The Excise Tax Law of 2006 provides that, in general, excise taxes are levied on goods considered to be damaging to health or the environment. It is also levied on luxury items and on items related to gambling, alcohols, cigarettes, petroleum and cars. Excise taxes apply to the above goods produced in Mongolia as well as to imports and are calculated either by quantity, or as a percentage of the value of the dutiable goods.

#### **5.4 Temporary Import Relief**

The Customs Law contains provisions on temporary admission of machinery and equipment. It can be imported temporarily for re-export under the condition that the goods are imported for use in demonstrations or exhibitions and will be re-exported within one year. If the importer obtains an import/export permit, such temporary imports are exempted from customs duties.

#### **5.5 Customs Duties Incentives**

Pursuant to the Customs Law of 2008, the following items are exempt from Customs duties in Mongolia:

- appliances for special use by the disabled and artificial organs and accompanying spare parts;
- goods for humanitarian assistance and similar donations;
- equipment, facilities, materials, raw materials, appliances, petroleum, diesel fuel for oil exploration, exploitation and use according to an agreement made with the Government on product sharing in oil sector;
- Mongolian national currency manufactured in foreign countries;
- goods for official use by foreign diplomatic missions, consulates, the United Nations and its specialized agencies;
- travelers' personal effects;
- blood, blood products, body and organs to be used for medical purposes;
- gas fuel, designated containers, equipment, special machinery, facilities and equipment;
- Civil aviation aircrafts and accompanying spare parts; and
- Personal items for use by the head of the foreign diplomatic missions, diplomatic, technical and service staff and their family members deemed necessary to move into the host country.

#### **5.6 Documentation and Procedures**

In order to facilitate the trade process “one-stop” services have been provided at the major customs points of the country. These services are intended to make it possible to complete all the necessary customs documentation and procedures in one location.

These procedures include processing of documents by customs authorities, custom valuation, payment of customs duties and all taxes and customs examination. Since 2001, Mongolia has introduced the Automated System for Customs Information Management (GAMAS), which permits the customs clearance and payment of customs duties and taxes to be done online.

Importers are also able to use the services of customs brokers who go through all documentation and other formal procedures on their behalf. Regulations on the operation of customs brokers are issued by the Customs General Administration.

Customs documents submitted in foreign languages are accepted at the discretion of the customs officer. If such documents are found to be inadequate or illegible, a Mongolian translation will be required. Most documents required for clearance are written in English and Russian and customs officials generally have at least a working knowledge of both languages.

## 5.7 Warehousing and Storage

Imported goods may be required to be put into a bonded warehouse in Mongolia in order for the proper documentation to be prepared and duties and other taxes to be collected. Goods can be stored for a maximum of two years with the possibility of a one year extension.

A variety of actions are allowed in bonded warehouses, including the inspection of the goods, unpacking, sorting and repackaging of goods, the repair of goods, taking samples for the use of customs, and other actions deemed necessary by the government.

Temporary customs warehouses also exist for the temporary storage of goods under customs control. Goods that have not cleared customs within three days may be stored in these temporary warehouses for up to two months.

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## 6. BUSINESS ENTITIES<sup>15</sup>

### 6.1 Legal Framework

Economic and business activities in Mongolia are regulated by a variety of laws, such as the Company Law of October 6, 2011, the Civil Code of January 10, 2002, the Law on Foreign Investment of May 10, 1993, the Law on Regulation of Foreign Investment in Business Entities Operating in Sectors of Strategic Importance of May 17, 2012 and many others.

According to the Company Law and Foreign Investment Law, incorporation in Mongolia can take the form of either a business entity with limited or no foreign investment (BELFI), or a business entity with foreign investment (BEFI). A BEFI is defined as a company having assets worth more than 100,000 USD (or its equivalent in MNT) of which not less than 25% are owned by foreign investors. A BELFI is converted into a BEFI at the point in which a foreign investor acquires 25% or more of the shares of a BELFI through the sale, issuance, dividend, or otherwise, of such shares. Currently, Mongolian legislation allows for the incorporation of joint stock companies and limited liability companies, or the establishment of representative offices.

There are many financial, legal, commercial and tax implications arising from the choice of vehicle. For example, representative offices cannot conduct commercial income-generating activities and are not considered legal entities. Foreign companies that intend to engage in commercial income-generating business activities in Mongolia typically structure their presence through a limited liability company.

Below we outline the main features of the most common forms of business entities.

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## 6.2 Joint Stock Companies (JSC)

### *General*

A JSC may be either an *open JSC* or a *closed JSC*. Generally, an open JSC is a company whose capital invested by the shareholders is divided into shares, which are registered at the Mongolian Stock Exchange and which may be freely traded by the public without regard to preemptive rights of the shareholders. A closed JSC is a company whose capital invested by the shareholders is divided into shares, which are registered at the Securities Clearing House and Central Depository of Mongolia (SCH&CD), and which are traded outside of the Mongolian Stock Exchange by means of closed subscription.

Open JSCs are required to report to the Financial Regulatory Commission (FRC) on financial and corporate matters.

### *Establishment*

Both closed and open JSCs must be registered with the State Registration Office to acquire proper legal status in Mongolia. To register a JSC, the following documentation must be submitted to the State Registration Office:

- Application form and request letter;
- Charter;
- Document confirming the address;
- Minutes of the foundation meeting;
- Balance sheet confirming the required minimum amount of owner's equity;
- Documents confirming the identity of founders and payment of the required fee for state registration; and
- Letter of Approval from the FRC.

The charter of a JSC must be notarized and should generally specify: full and brief name of the company, the number of authorized, issued and outstanding shares and their par value, the number of members of the Board of Directors (minimum 9 members, one-third of which shall be independent members), procedures for the foundation, competency and activities of the company's bodies, including procedures for convening a general meeting, preparation for and holding a general meeting of shareholders and meetings of collective bodies, procedures for informing shareholders on the activities of the activity, a list of governing positions, mandatory appointment of an auditor, term of the fiscal year of the company fiscal, etc.

Initial capital is provided by contributions from subscribers and may take the form of cash or other property and property rights assessed in monetary equivalent. The minimum amount of charter capital for listing a JSC at the Mongolian Stock Exchange is MNT 10 million, with the exception of banks and insurance companies which must have a higher charter capital.

JSCs that will engage in mineral resources, banking and finance or media and communication are subject to the approval of the Government of Mongolia, and in some cases Parliament, under the Law on Regulation of Foreign Investment in Business Entities Operating in Sectors of Strategic Importance.

A closed JSC is formed through closed subscription, where the shares are offered only to a certain group of people through a subscription form. Upon completion of the subscription period, the subscribers issue the company charter and decision of the founders. Legal status is acquired only when registered with the State Registration Office and the SCH&CD. As of July 2012, the detailed procedure for the establishment and registration of closed JSCs is yet

to be enacted by the FRC. Open JSCs have the additional requirement of having their shares registered with the FRC.

The most common practice of forming an open JSC is through re-organization of a limited liability company. The shareholders of the limited liability company make a decision on such re-organization by a minimum two-thirds vote. Following such resolution, the newly formed open JSC is registered with the State Registration Office as stated above, provided however that the FRC has approved such re-organization and registered its securities.

The legislation of Mongolia does not exclude the possibility of founding a JSC by a citizen with the approval of the FRC and pursuant to the general procedures provided above. However, there is no previous experience of such establishment of a JSC.

### *Shares and Rights*

The issuance of shares in an open JSC must conform with the Mongolian securities legislation and must be registered with the FRC. With regards to closed JSCs, the issuance of shares must be registered with the SCH&CD. There are two types of shares - ordinary and preferred. There is no limit to the number of preferred shares that can be issued.

The holding of preferred shares grants priority rights to receive dividends and also (as determined by the company's charter) to participate in prior distribution of property in the event of liquidation. A holder of a preferred share has no right to take part in the management of a JSC, except for certain cases provided by the law.

Dividends may be paid in monetary form, in property or in the form of securities. The decision on whether dividends will be distributed must be made by the company's board within 50 days after the end of the company's fiscal year.

The Mongolian Company Law recognizes the concept of "golden" shares but only in the case of privatization of a state-owned company or a company in which the state is the majority shareholder. The Government may hold one "golden" share which does not form part of the share capital and whose holder does not receive dividends. The holder of the "golden" share participates in the management of the JSC through the right of veto major decisions to be made by general meetings, the board of directors and the executive body. A golden share can only be held by the government for a specified period of time.

### *Termination*

A JSC may be terminated in the following circumstances:

- By agreement of its shareholders; or
- Under a court decision as provided by legislation, including for insolvency.

Termination may occur through reorganization or liquidation. Liquidation is carried out by a liquidation committee appointed by the general shareholder's meeting, or in case of insolvency, by the courts.

## **6.3 Limited Liability Companies (LLC)**

### *Establishment*

A LLC is formed on the basis of a charter and a decision of its founders. Initial capital is provided by contributions from shareholders and may take the form of cash or other property and property rights assessed in their monetary equivalent. LLCs may be founded by one or more individuals or legal entities.

LLCs must be registered with the state to acquire legal status, and if operating in mineral resources, banking and finance or media and communication sectors, may need approval from the Government or Parliament. To register an LLC, the following documentation must be submitted to the State Registration Office and, as applicable, to the Foreign Investment and Foreign Trade Agency (FIFTA):

- Application form and request letter;
- Charter;
- Document confirming the address;
- Minutes of the foundation meeting;
- Bank confirmation letter confirming the required minimum amount of owner's equity and the starting balance;
- Letter from banking institution stating the shareholder has maintained its accounts in good standing;
- Feasibility study or business plan;
- And documents confirming the identity of founders and payment of the required fee for state registration.

The charter of an LLC should generally specify: full and abbreviated name of the company, the number of authorized shares, the number of issued and outstanding shares and the par value, the number of members of the Board of Directors (a Board of Directors is not mandatory for LLCs), procedures for foundation and competency and activity of the company's bodies, including the procedure for convening general meetings, preparation for and holding a general meeting of shareholders and meetings of collective bodies, procedures for informing shareholders on the activities of the company, a list of governing positions within the company, start and end dates of the fiscal year of the company, etc.

The minimum amount of charter capital for a foreign invested LLC (BEFI) is USD 100,000, which must be paid prior to registration. There is no minimum amount of charter capital for a LLC with limited or no foreign investment (BELFI).

### *Shares and Rights*

There are two types of shares - ordinary and preferred. There is no limit to the number of preferred shares that can be issued. The holder of an ordinary share has the right to vote at the general meeting of shareholders and take part in the election of management bodies. The holder of preferred shares has priority rights to receive dividends and also (as determined by the company's charter) to participate in prior distribution of property in the event of liquidation. A holder of a preferred share has no right to take part in the management of a LLC, except for certain cases provided by law.

Shareholders may elect to distribute dividends if the company is solvent after such distribution. Dividends may be paid in monetary form, in property or in the form of securities.

### *Termination*

A company may be terminated in the following circumstances:

- By agreement of its shareholders; or
- Under the court decision as provided by legislation, including for insolvency reasons.

Termination may occur through reorganization or liquidation. Liquidation is carried out by a liquidation committee appointed by the general shareholder's meeting, or in case of insolvency, by the courts.

## 6.4 Partnerships

There are two types of partnership set out in the Law on Partnerships: Limited and Unlimited. In a limited partnership, there is at least one partner who has unlimited exposure to the liabilities of the partnership and the rest have their liability limited to their capital contribution. In an unlimited partnership, the partners are jointly and severally liable for the obligations of the partnership, without limit to their capital contribution and personal property.

Partnerships are required to register with their local State Registration Office, are able to trade internationally and merge or be liquidated.

Partnerships are not a common structure for foreign investors given the inability to avoid unlimited liability for at least one of the partners.

## 6.5 Representative Offices

Under the Foreign Investment Law, foreign investors may establish representative offices, which are not separate legal entities, but rather an extension of their head office. A representative office is only allowed to undertake representative functions and the protection of the interests of its head office. Representative offices do not have charter capital and, accordingly, it is the head office that is legally responsible for liabilities to third parties.

The registration procedures for representative offices are similar to those for Mongolian legal entities. In addition to one or two agencies, depending on the type of activities, representative offices of a foreign entity are required to be registered with the FIFTA. The registration fees for a representative office are considerably more than for a LLC.

## 6.6 Registration Process in General

The registration of new BEFI in Mongolia takes place at three agencies:

- Foreign Investment and Foreign Trade Agency ;
- The State Registration Office ; and
- District Tax Office.

Currently the registration at these agencies takes place separately. Company registration for BEFIs begins with FIFTA. All BEFIs are issued a FIFTA certificate, which must be extended on an annual basis. Registration at FIFTA will take approximately five business days. Registration then continues at SRO. During SRO registration the company must also register with the tax office of the district in which it is located, according to the company's registered address. The company must show proof of registration at the tax office to SRO before registration can be completed. Registration at SRO takes an additional five days. Taking into account registration document preparation, obtaining a chop, opening a bank account at a Mongolian commercial bank, translation time and possible agency delays total registration time for a new BEFI is approximately four weeks.



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## **7. LABOUR RELATIONS AND SOCIAL SECURITY<sup>16</sup>**

### **7.1 Labour Market**

According to the World Bank, Mongolia's unemployment rate was 4.4% as of March 2012. However, the unofficial unemployment rates are estimated to be much higher. The total number of registered unemployed persons as of March 2012 is approximated 50,000.

### **7.2 Labour Relations**

Labor relations in Mongolia are largely regulated by the Labor Law of Mongolia of May 14, 1999.

### **7.3 Working Conditions**

According to the Labor Law, employment contracts or employment agreements (determined by position or by the type of work performed) define the terms of employment. Standard working hours are 40 hours a week, with special provisions for seasonal shift work, such as the extractive industries or agriculture. Salaries are established by the employer independently but may not be lower than the minimum wage as established by Mongolian legislation. The minimum monthly wage was adjusted in 2011 to MNT 140,400. Wages for a skilled worker with English language skills and a degree from a Western university are significantly higher.

### **7.4 Social Security System**

Citizens of Mongolia, foreign citizens and stateless persons employed on a contract basis by all types of economic entities, organizations, government, religious or other organizations and foreign economic entities carrying out activities in Mongolia are subject to the compulsory insurance, which is deducted from the gross salary

Employee rates are 10% but are capped at MNT 140,000 per month. Employer charges range from 10% to 13% depending upon their industry and are not capped.

### **7.5 Foreign Personnel**

All foreign employees, apart from employees of embassies or organizations set up through special treaties, must be paid in Mongolian tugrik into tugrik bank accounts in Mongolia, per the Law of Mongolia on Conducting Settlement in National Currency of July 9, 2009. Foreign workers are free to transfer their salaries overseas.

Currently, work permits must be obtained for all foreign employees in companies and representative offices. Obtaining work permits can be time-consuming, generally taking four weeks before entry and an additional two weeks after entry. Before arrival a single entry work visa must be applied for at any Mongolian embassy worldwide. Practice varies from embassy to embassy.

After entry the foreign worker must be registered within seven calendar days at the Immigration Office or face a fine of up to MNT 1,000,000. The application process for the work permit and visa will also continue after the employee enters. While provisional approval for a work permit must be applied for and obtained before entry, once the foreign worker has entered an actual work permit must be obtained from the Labor Office of the Ministry of

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<sup>16</sup> Contributed by MahoneyLiotta LLC

Labor and Social Welfare. A work place fee in the amount of MNT 280,000 per month of the work permit must also be paid in advance to the Labor Office.

Once the work permit has been obtained the single entry work visa must be extended to a long term multiple entry visa. Additionally a long term residency permit must also be obtained from the Immigration Office.

Individual (not corporate) shareholders or the registered Executive Director of a foreign invested company do not need to hold work permits in order to work in Mongolia. These categories of employees qualify for an Investor's Card from FIFTA and the accompanying T-type visa and a long term residency permit. Holders of a T visa are not required pay the work place fee.

The Government of Mongolia sets foreign worker quotas, for both locally owned and foreign invested companies operating in Mongolia. Depending on the sector, the quota ranges from 5% to 80%. The total amount of investment and total number of employees of a company will also influence its quota. The default business activity of all foreign invested companies is "foreign trade" which attaches a quota of 5%. This means that a company must maintain 20 Mongolian employees for every 1 foreign employee. Quotas may increase depending on the sector. For instance, companies having a mining or exploration license have a quota of 10% while a company extracting oil or natural gas may maintain a workforce comprised of foreign employees up to 80%.

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## **8. ACCOUNTING AND AUDIT REQUIREMENTS**

### **8.1 Accounting**

The State Ikh Khural (the Parliament) approved the Law on Accounting on 13 December 2001. The fiscal year ends on 31 December. Entities should file their annual audited financial statements with the relevant state regulatory agency by March 31, and must also submit quarterly financial statements by 20th of the following month in accordance with specific forms approved by Ministry of Finance.

Financial statements should be prepared in accordance with International Financial Reporting Standards (IFRS). Chief accountants of state owned companies or companies with state ownership are required to hold a national CPA qualification.

### **8.2 Chart of Accounts**

Currently, economic entities in Mongolia are required to apply the Chart of Accounts issued in December 2000 by the Ministry of Finance and Economy. NGOs have a similar but specialized Chart of Accounts which was adopted in December 2005. Principally, the Chart of Accounts sets the first two digits of balance sheet and profit/loss accounts which are to be used. Entities can decide on the number and arrangement of sub-divisions of account codes themselves.

On 30 October 2003, the Bank of Mongolia (Mongolia's central bank) adopted a Chart of Accounts applicable for banking institutions, which sets the basic classification system to be used by banks for the purpose of their financial reporting and reporting to the Central Bank.

Government organizations have their own separate Chart of Accounts.

### 8.3 Audit Requirements

In accordance with the Mongolian law on Auditing, the following organizations are required to have their financial statements audited in accordance with International Standards of Auditing (ISAs):

- Listed companies;
- Companies applying for listing on the stock exchange;
- Entities with total assets over over 50 million Tugriks;
- Entities being restructured, liquidated, or intended to sell all its capital by auction;
- If not otherwise stipulated by the law and international treaties of Mongolia, foreign invested business entities and organizations (where foreign investment exceeds 25%);
- Cooperatives conducting savings and loan disbursement activities;
- Banking, financial and insurance organizations;
- Securities companies carrying out brokerage and dealer activities and companies running investment funds;
- Funds described under Article 36, paragraph 2 of the Civil Code;
- Political parties; and
- Organizations similar to the business entities and organizations above.

Audit firms must be licensed by the Ministry of Finance of Mongolia to provide an audit report for a Mongolian company and has to be registered with Financial Regulatory Committee of Mongolia to be able to audit insurance companies and listed/to be listed companies.

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## 9. TAX SYSTEM AND ADMINISTRATION

### 9.1 Tax System

The National Tax Administration is comprised of the State administrative body (General Department of Taxation) which is in charge of taxation, tax agencies and offices of capital city, province, district; and tax branches of *soum* and state tax inspectors.

### 9.2 Direct and Indirect Tax Burden

All taxes are subdivided into direct and indirect taxes. VAT and excise tax are recognized as indirect taxes.

### 9.3 Principal Taxes

- Taxes on corporate income (including withholding tax and capital gains tax)
- Personal Income Tax
- Social Insurance Tax
- Value-added Tax
- Customs and Excise Duties
- Immovable Property Tax
- Mining Tax (license fees and royalties)

### 9.4 Legislative Framework

The main Tax laws are set out above also includes legislation governing specific types of activities:

- Law on Foreign Investment
- Law of regulation of Foreign Investment in Strategic Sectors; and
- Law on Minerals.

Despite several rounds of amendments of various legislation over the past few years, the legislation remains in its infancy and complicated issues are not dealt with clarity.

Therefore, it is imperative to obtain advice on the interpretation, implementation and practice adopted by the tax authorities as well as ensuring that the most recent legislation is being considered.

### 9.5 Income Tax

Mongolian corporate income tax uses the progressive rate scale from 10%-25%:

- 10% should apply for annual income up to 3 billion Mongolian Tugrik ("MNT") (approx. USD 2,2 million); and
- 25% should apply for any excess of 3 billion MNT.

#### *Classes of Taxpayer*

In general, Mongolian residents are taxable on their worldwide income whilst non residents are only taxable on the Mongolian source income. This applies to both natural persons and legal entities.

#### *Taxable Income*

Taxable income is defined as aggregate annual income less allowable deductions.

### 9.6 Tax Treaties

Mongolia has currently concluded Double Tax Treaties with 30 countries. In addition there are five which are pending. For the list of Double Tax treaties, please see Appendix D.

There have been certain actions taken by the Government of Mongolia in the area of international taxation and application of tax treaties. To initiate this, the Ministry of Finance has prepared a proposal to the Ministry of Justice and Ministry of Foreign Affairs to cancel some of the DTTs that Mongolia currently has in force. The DTTs that have been identified are Netherlands, Luxembourg, UAE and Kuwait.

### 9.7 Tax Returns and Payments

Tax reports are compiled by the taxpayer, tax agent or their representative. The reports must be submitted in paper format and electronically and must be in Mongolian; supporting documentation must also be in, or translated into, Mongolian. Recently, the tax administration started to implement an e-filing only system. From May 2012, entities are allowed to submit electronic tax reports once they obtain the e-signature.

### 9.8 Assessments

Tax reports, once submitted, are subject to an administrative check to ensure that they comply with the requirements for completing the report. A technical review of the tax position taken and the underlying documentation forms part of a tax audit which may be carried out in the future. Upon the conclusion of an audit the tax authorities will issue an 'act' setting out their findings.

### 9.9 Appeals

Where a taxpayer objects to a decision of the tax inspector, the legal department of the tax administration will investigate the dispute and give an opinion. In case the dispute cannot be resolved by the legal department, the case is reviewed by the Tax Dispute Council consisting of six persons and is chaired by the head of the Revenue Department of the Ministry of Finance. If the taxpayer disagrees with the resolutions of the Council, the case can be taken to the General Court.

### 9.10 Withholding Taxes

Mongolian entities are required to withhold tax on dividends, royalties to economic entities resident in Mongolia and just on royalties to individuals as dividends are exempt from taxation for individuals until 2013. In both cases the rate is 10%. Withholding tax is applied to the gross proceeds on the sale of immovable property at 2%

Non-residents with no presence in Mongolia are subject to 20% withholding tax on income earned in the territories of Mongolia and on Mongolian source income. This covers the following types:

- Dividends;
- Interest;
- Royalties;
- Rental;
- Management and administrative expenses;
- Income goods, work or services provided in Mongolia; and
- Work or services provided directly or through electronic means.

### 9.11 Tax Audits

A tax inspector is empowered to examine financial documents connected with the payment of taxes and ask for explanations. The official can temporarily seize documents which are evidence of tax avoidance and copy them.

### 9.12 Penalties

Interest, calculated on a daily basis for the period between the due date and for payment and the actual payment date, and penalties are imposed on late payment of taxes. Flat rate penalties also exist for the failure to comply with various administrative requirements.

### 9.13 Advance Tax Clarification

Rulings can be obtained from the tax authorities, but these are not legally binding.

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## 10 TAXATION OF CORPORATIONS

### 10.1 Corporate Tax System

The Economic Entity Income Tax law governs the taxation of profits of:

- Mongolian economic entities;
- Foreign economic entities that have their headquarters in Mongolia; and
- Foreign economic entities that earn income in Mongolia other than via the above.

It is not currently possible for a foreign company to have a taxable presence in Mongolia.

## 10.2 Incentives

Tax incentives or benefits are available to the agriculture and mining industries. Foreign investors may obtain similar benefits where they meet minimum investment levels.

## 10.3 Taxable Income

Taxable income falls under the following three categories:

- Income from activities which includes:
  - a) Business activities
  - b) Sale of shares and securities
  - c) Gains on foreign currency exchange rates
- Income from property which includes:
  - a) Rental
  - b) Royalties
  - c) Dividends
  - d) Interest
- Income from the sale of property (both immovable and movable except for shares and securities).

The Mongolian corporate income tax rate is progressive rate and ranges from 10%-25%:

- 10% should apply for the first annual income of 3 billion Mongolian Tugrik ("MNT") (approx. USD 2,2 million); and
- 25% should apply for any excess of 3 billion MNT.

Certain types of income maybe taxed at different tax rates.

Source of income	Applicable tax rate
Dividends	10%
Royalties	10%
Interest	10%
Gambling, betting games and lotteries	40%
Sale of immovable property (gross)	2%
Sale of rights (gross)	30%

## 10.4 Deductibility of Expenses

**General** Expenses associated with the earning of aggregate annual income are deductible for corporate income tax purposes (provided that they are properly documented). The tax legislation provides a list of deductible expenses. Anything other than those is not considered deductible.

**Interest Expenses** Interest paid to third parties is deductible. Interest paid to a share holder is subject to a 3:1 debt to equity restriction. Further restrictions apply to interest on loans made from a Mongolian individual who controls the entity.

**Depreciation** Depreciation, for tax purposes, is calculated using the straight line method over the useful economic life of the asset. This depends upon the nature of the asset, ranging from 3 years for IT equipment to 40 years for buildings and constructions.

**Disallowable expenses** Generally expenses need to be specifically stated as deductible so there are not many expenses stated as specifically disallowable. However the following are not deductible for tax purposes:

- Finance lease payments;
- Fines and penalties;
- Expenses incurred for earning exempt income;
- Expenses not documented by the taxpayer; and
- Payments from which tax is not withheld but required to be withheld.

### 10.5 Related Party Transactions

In general, transactions are valued for tax purposes at the contact value. Where transactions take place between related parties above or below this value, the tax authorities have the right to alter the value used at an arms length basis.

The CIT Law of Mongolia specifies and determines related parties as follows:

- If a party holds at least 20% of the common stock of another party;
- If a party has the right to receive at least 20% of dividends or distributions; or
- If a party has the right to appoint at least 20% of management or otherwise able to determine its policies.

However the General Tax Law provides another definition on the “related parties” that is based on ability to participate in management and can be used in addition to the above definition.

### 10.6 Foreign Exchange

Income and expenditure in foreign currencies should be translated into MNT on the date of the transaction. Realized gains and losses from foreign currency exchange rates are taxable and deductible respectively.

### 10.7 Losses

Losses can be carried forward for up to two years and use of such losses is restricted to 50% of the taxable profit in any year for economic sectors other than mining and infrastructure.

For mining and infrastructure sectors losses can be carried forward for four to eight years depending on the investment amount and the whole taxable profit can be offset in a year (no 50% limit applies).

### 10.8 Tax Computations

Taxpayers should submit quarterly and annual returns to the tax authorities by the 20<sup>th</sup> of the month following the end of each quarter and 10<sup>th</sup> February for the annual return.



Based on these, the tax authorities issue monthly/quarterly payment schedules and payments must be made by the 25<sup>th</sup> of each month.

In practice the Mongolian tax authorities allow concessions as follows:

- A company with annual taxable income of less than MNT 500,000 may pay tax on a quarterly basis; or
- Where total tax paid exceeds the tax liability, the excess can be credited against other taxes due or credited against future tax payments. It may also in theory be refunded; practice here is less clear and consistent.

Withholding taxes must be paid within seven to ten days of the underlying payment (depending upon the nature of the payment) and taxpayers should prepare quarterly and annual returns for submission to the tax authorities by the 20<sup>th</sup> of the month following the end of each quarter and 10<sup>th</sup> February for the annual return.

## 10.9 Other Taxes

### *Excise Tax*

Excise tax is levied on goods manufactured in or imported into Mongolia such as tobacco, alcohol, gasoline and diesel fuel and passenger vehicles. Recent uncertainty over international supplies of gasoline and diesel fuel has lead to variations in the levy. Excise tax is also imposed on the physical units of special purpose technical devices and equipments used for betting games and gambling and activities of individuals and legal entities that conduct such activities.

### *Immovable Property Tax*

Immovable property tax is levied at 0.6% of the value of the immovable property. For tax purposes, the value used is the value registered with the government registration authority. If the property is unregistered, the insured value is used. In the absence of either a registered or insured value, the accounting value is used. From 1 January 2013, the immovable property tax will be 0.6% -1% of immovable property value depending on the size, location, and market demand etc.

### *Stamp Duty*

Stamp duty is imposed on the following under the Law of Mongolia on State Stamp Duties:

- Monitoring of and decisions on matters of legal status by a court of law;
- Registration of business entities and organizations;
- Permission to register business entities with foreign investment and allowing persons to be employed with representative offices of foreign organizations;
- Permission to carry out services and carry out production which requires special permission or expertise;
- Grant of certification for copyright, patent or trademarks;
- Registration of copyrights;
- Granting of permission to carry out activities in respect of securities and registration of securities, and for authorization to issue and register securities;
- Other services.

The amount of duty varies according to the type of services/transaction involved.

### *Customs Duty*

A flat customs tariff of 5% applies in respect to most goods imported into Mongolia, except for information technology, medical equipment and pure bred livestock, which are zero rated. Certain equipment imported by small and medium size enterprises ("SME"), are exempt from customs tariff.

Export duties apply to certain exported goods such as waste iron, aluminum, copper, brass and indentured cashmere.

#### *Air Pollution Payment*

The Law on Air Pollution payments came into effect from July of 2010. Produced raw coal, used or imported organic solvents and vehicles are subject to this payment.

### **10.10 Branch vs Subsidiary**

It is not currently possible to establish a branch of a foreign company in Mongolia. Steps are underway at the Mongolian Tax Authorities to allow Permanent Establishments to register as taxpayers. As at the date of publishing, the final details have not been published.

### **10.11 Group Taxation**

There are no rules permitting grouping for tax purposes in Mongolia.

### **10.12 Special Taxation Regimes**

#### *Foreign Investment*

A foreign investor investing certain level may apply for a stability agreement to govern their investment, providing stable tax conditions to their investment for a fixed term.

Currently an investment of up to USD 20m will permit a 10 year term and a USD 50m investment a 15 year term.

#### *Mining*

A mining stability agreement covers tax stability and other business rights. The minimum investment refers to the amount invested over the first five years of the project and will provide stability for a fixed term as follows:

- USD 50m for ten years;
- USD 100m for fifteen years; and
- USD 300m for thirty years.

All exploration costs should be capitalized and then amortized on a straight line basis over the life of the mine following the commencement of production. License acquisition costs are amortized over the life of the license.

#### *Mining and Exploration License Fee*

This varies for exploration and mining licenses. Mining license fee is agreed up front and stated in the mining license. Exploration license fees are based on the number of years of exploration.

#### *Royalty Fees*

Royalty fees are paid on the sale of mining products. The rate depends on the product being mined as well as the amount of value added services being performed in Mongolia.

Amendments were made to the Law on Minerals that came into effect from January 1, 2011. The changes mainly focus on imposing additional royalties based on the market price increase of mining products as well as the amount of value added services being performed in Mongolia.

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## **11. TAXATION OF INDIVIDUALS**

### **11.1 Territoriality and Residence**

A permanent resident taxpayer of Mongolia is subject to tax on his/her world-wide income. A non-resident taxpayer of Mongolia is subject to tax on the income earned in the territory of Mongolia in a tax year.

A permanent resident taxpayer of Mongolia is:

- An individual who owns a residence in Mongolia; or
- An individual who resides in Mongolia for 183 or more days in a tax year.

A non-resident taxpayer of Mongolia is:

- An individual who has no residence in Mongolia and has not resided in Mongolia for 183 or more days in a tax year.

### **11.2 Gross Income**

#### *Employee Gross Income*

All direct and indirect income received through employment or related activities during a calendar year. This includes both taxed and untaxed income at the source of payment.

#### *Capital Gains and Investment Income*

Gross income from sale of immovable property is taxed at a rate of 2%. Gain from the sale of movable property including securities is taxed at a rate of 10%.

Dividends and interest income earned by individuals is generally subject to tax at the rate of 10%, withheld at source. The tax on Dividends and Interest will not come into force until 1 Jan, 2013.

### **11.3 Deductions**

#### *Business Deductions*

There are no business deductions allowed for employees. An individual may claim business deductions if registered as an entrepreneur.

Social insurance charges are deductible for PIT purposes.

#### *Non-Business Expenses*

There are no deductions for non-business expenses.

#### *Personal Allowances*

The most notable allowance is a general deduction wage of 84,000 Mongolian Tugrik ("MNT") per annum (approx. USD 62).

### **11.4 Tax Credits**

A credit is available for individuals who have suffered tax in other countries under the terms of a Double Tax Treaty.

Tax credits are also available for agricultural production and educational fees.

### **11.5 Other Taxes**

#### *Social Security Taxes*

Citizens of Mongolia, foreign citizens and stateless persons employed on a contract basis by all types of economic entities, organizations, government servants, religious or other organizations and foreign economic entities carrying out activities in Mongolia are subject to the following compulsory insurance:

- Pension insurance (employer: 7% employee: 7%);
- Benefit insurance (employer: 0.5 %; employee: 0.5%);
- Health insurance (employer: 2%; employee: 2%);
- Industrial accident and occupational disease insurance (employer: 1% to 3%); and
- Unemployment insurance (employer: 0.5%; employee: 0.5%).

Employee deductions are capped at MNT140, 400 per month (USD 104). Employer payments are not capped. These charges are deductible for CIT purposes.

Social Insurance and Health insurance returns should be submitted electronically and by paper before 5<sup>th</sup> of the following month on a monthly basis. Payments should be also made by 5<sup>th</sup> of the following month to the account of the Social Insurance Fund.

#### *Obligatory Pension Contributions*

Included in the Social Security Taxes.

#### *Wealth Tax*

There is no wealth tax in Mongolia.

#### *Local Taxes*

There are no additional local taxes on income.

### **11.6 Tax Administration**

#### *Assessment*

The following types of income are subject to withholding tax:

- Employment income;
- Interest;
- Royalties; and
- Dividends.

Please note that dividends and interest are exempt from taxation including withholding tax until 1 January 2013.

### *Returns*

A withholder shall submit a quarterly report of tax withheld by the 20<sup>th</sup> of the first month of the following quarter and the annual tax report by February 15 of the following year to the corresponding tax authority.

Income not covered by the above should be reported on the annual tax return which must be submitted to the tax authorities by 15<sup>th</sup> February following the end of the tax year which is the calendar year .

### *Payment of Tax*

Tax withheld should be paid to the tax authorities by the 10<sup>th</sup> of the following month.

Tax on other income should be paid by the 15<sup>th</sup> of the first month of the following quarter.

## **11.7 Tax Rates**

Source of income	Applicable tax rate
Employment income	10%
Business and professional income	
Income from property, i.e. dividends, royalty, interest, capital gain from sale of securities/stocks	
Sale of immovable property (gross)	2%
Income from scientific, literary artistic works, inventions, product; designs and useful designs (gross)	5%
Designs and useful designs (gross)	
Income from sports competitions, art performances, and similar income (gross)	
Income from betting games, gambling and lotteries (gross).	40%

## **12. VALUE ADDED TAX (VAT)**

### **12.1 Introduction**

VAT at the rate of 10% is imposed on the supply of taxable goods and services in Mongolia, and on imports into Mongolia.

Taxpayers are required to register for Mongolian VAT purposes when their taxable turnover exceeds 10 million MNT (USD 7.4K). Taxpayers may also voluntarily register when their taxable turnover reaches 8 million MNT (USD 5K) or if they have invested more than USD 2m in Mongolia. We understand that at the time of publication, the MTA is considering increasing the VAT registration threshold to MNT 50m (USD 37k).

### 12.2 Scope of VAT

VAT is levied on the following in Mongolia:

- Work performed and services rendered in Mongolia;
- Goods sold in Mongolia;
- Goods imported into Mongolia to be sold or used; and
- Goods exported from Mongolia for use or consumption outside Mongolia.

The provision of services also includes the following:

- To provide electricity, heat, gas, water, sewer, postal, communications, and other services;
- To lease goods or allow one to possess or use them in other forms;
- To rent out rooms in hotels or similar places or allow one to possess or use them in other forms;
- To rent out rooms in houses or buildings or allow one to possess or use them in other forms;
- To lease immovable and movable property other than houses and buildings or allow one to possess or use them in other forms;
- To transfer, lease, or sell innovations, product designs, useful designs, copyrighted works, trademarks, know-how, and information on assets;
- To issue lotteries, operate quizzes or gambling or provide intermediary services;
- To pay off debts by performing work or providing services;
- The performance of work or provision of services from a non-resident to a resident; and
- To pay interest and fines to others due to misconduct.

The sale of goods also includes the following:

- Sale of right to conduct economic activity;
- Retention of assets upon the termination of trade;
- Settlement of a debt with goods; and
- Sale by a non-resident to resident.

### 12.3 Zero-Rating

The following are zero-rated for VAT purposes:

- Export sales of goods;
- International transportation services;
- Services provided outside Mongolia;
- Services provided to a foreign citizen or legal entity not present in the territory of Mongolia during the provision of services (including tax-exempt services);

- Services provided to domestic or international aircrafts conducting international flights;
- State medals and coins produced domestically; and
- Export of finalized mining products. (processed rather than raw materials).

#### 12.4 Exempt Supplies

The following goods shall be exempted from VAT:

- Passengers personal items in amounts approved and permitted by the customs authority for tax-free entry;
- Goods imported for the use of foreign diplomatic missions or their officials residing in the territory of Mongolia on a permanent basis;
- Humanitarian and non-repayable aid goods;
- Custom appliances for developmentally challenged persons;
- Weapons and special equipments imported for armed forces, police, and state security and judicial enforcement agencies;
- Civil aviation aircrafts and spare parts;
- Income from sale of an apartment and its part used for residential purposes;
- Equipments, materials, raw materials, spare parts, gasoline and diesel fuel imported for the purpose of oil exploration, extraction, and use under a product-sharing agreement entered with government in the oil industry;
- Blood, blood products, and organs for medical treatment purposes;
- Gaseous fuel and its containers, equipments, custom machinery, mechanisms, tools, and spare parts;
- Mongolian currencies printed in foreign countries by orders;
- Gold sold;
- Newspapers sold;
- Products resulting from scientific research
- Mining products other than those zero rated;
- Certain types of loans;
- Raw coal;
- Used or imported organic solvents, vehicles;
- Produced or planted cereals;
- Processed meat; and
- Milk and milk products, etc.

The following services shall be exempted from VAT:

- Currency exchange operations;
- Banking transactions;
- Insurance and property registration;
- Transactions in stocks and securities;
- Loans;
- Transactions concerning issuance and transfer of interest for placement of monetary assets of social and health insurance funds;
- Residential accommodation;
- Educational services;
- Health services;
- Services of religious organizations;
- State services;
- Public transport; and
- Some services to tourists.



Goods, work, or services provided free of charge, or used for personal purposes other than for production, shall not be exempted from value.

## 12.5 Taxable Amount

### *VATable Supplies*

In general, the taxable amount is the fair market value of the goods sold, work performed or services provided.

For imported goods, this should include customs duty, excise tax and other such taxes to the customs value of the goods. There are a number of methods for establishing the customs value; transportation, insurance and any commission or royalty amounts are included.

Taxpayers should account for VAT on goods, work or service obtained from non-residents.

Transactions in a foreign currency are required to be translated into MNT at the rate applying on the tax date of the transaction.

### *VAT Offset*

VAT paid for goods, work or services can be offset against VAT payable to the Budget; this must be substantiated by documentary evidence. This can only be done once a company has registered for VAT.

Pro-rating is required where VAT is incurred partially for exempt and partially VATable purposes to facilitate a recovery of the VAT Input Tax

### *VAT Calculation and VAT Offset Carry-Forward*

The VAT liability of a taxpayer comprises Output VAT (i.e., VAT charged by a taxpayer) less Input VAT (i.e., VAT paid by a taxpayer to its suppliers) in a reporting period.

The excess of input VAT over output VAT may generally be carried forward against future VAT liabilities or offset against other tax liabilities. In practice refunds are difficult to obtain, although the rules do prescribe a procedure for refunds under certain conditions.

### *Reverse Charge VAT and Offset*

Mongolian companies are required to account for Reverse Charge VAT (also known as self-charge) on services received and goods / equipment bought from foreign entities.

Recent amendment in the VAT law stipulate that Reverse Charge VAT withheld by Mongolian residents on services provided, work performed and goods imported by non-residents should not be allowed for offset against Output VAT by the Mongolian taxpayer. As at the date of this publication, a number of taxpayers have challenged this in the Courts of Law, and the outcome has not been determined

## 12.6 Non-Deductible Input VAT

Value-added tax paid in the course of import or purchase of the following goods, work or services shall not be eligible for credit against total value-added taxes due by a buyer:

- Automobiles and its components and spare parts;
- Goods or services purchased for personal or employees' use; and
- Goods, works, or services imported or purchased for specific production purposes.

### **12.7 VAT Incentives**

A number of VAT exemptions have been introduced outside of the law on VAT. These are targeted at specific industries as well as specific projects which have been funded by international institutions (such as the World Bank) or foreign governments.

### **12.8 VAT Simplification**

Group reporting for VAT is possible.

### **12.9 VAT Compliance**

VAT is accounted for on a monthly basis and paid by the 10<sup>th</sup> of the following month. Returns must be submitted by the 15<sup>th</sup> of the month and records should be kept for 6 years.

## PRICEWATERHOUSECOOPERS IN MONGOLIA

### *Ulaanbaatar:*

Contact Names	Address	Communications
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<b>Alexey Fegetsyn</b> Audit and Assurance Partner alexey.x.fegetsyn@mn.pwc.com		
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<b>Boldbaatar Ochirsuren</b> Audit and Assurance Manager boldbaatar.ochirsuren@mn.pwc.com		

**APPENDIX A - *Macroeconomic Indicators of Mongolia***

<b>GDP growth (2011):</b>	17.2%
<b>Inflation (2011):</b>	9.7% (2011)
<b>Policy rate of Central Bank:</b>	11% per annum
<b>Gross official int'l reserves:</b>	USD 2,544.28 ml (June 2011)
<b>Country rating:</b>	S&P – BB- (March 2012) Fitch – B+ (March 2012)
<b>Currency:</b>	Mongolian Tugrik (MNT)
<b>Exchange rate:</b>	MNT 1,356 = USD1 (1 August 2012)

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## **APPENDIX B – *Tips for Business Visitors***

### *Visas*

Mongolia requires visa to travel to the country, with a few exceptions, including the United States and several Asian countries. While there are a variety of visas, the application process is generally quite easy. Application can take place at any Mongolian embassy worldwide and not necessarily in the home country of the applicant. The application at an embassy generally takes 3-5 business days. Mongolian embassies do not follow standard procedure and often have their own rules and regulations, often requiring different paperwork and issuing visas for different terms. For example, while some embassies may only issue single entry work visas, others will issue yearlong multiple entry work visas. Single entry visas are approximately USD30 while yearlong visas are approximately USD130. Again, this fee structure varies from embassy to embassy. For exact details it is advised to contact your local Mongolian embassy.

Transit visas are necessary for passengers traveling by train through Mongolia, according to the Mongolian Law on the Legal Status of Foreign Citizens, but a specific time period is not given. Passengers traveling via international flights may transit Mongolia for a period of 24 hours without a visa.

According to Immigration officials it is possible to obtain a visa on arrival if the traveler's home country does not have a Mongolian embassy or consulate. This is only the case for a tourist or a business visa and not applicable to work visas. Prior approval must be obtained from the Immigration Office in Ulaanbaatar, which will then send an approval letter to the airport.

When obtaining a visa through a Mongolian embassy or consulate, an invitation from a host organization in Mongolia, a passport photos and the completed application form (which should be available from the embassy) are usually required. Passports should be valid for at least three months from the end of the visa period. Upon receipt of the visa, confirm that the dates in the visa are correct and cover the period of stay.

### *Travel*

Five airlines fly to Chinggis Khan International Airport in Ulaanbaatar and, together, give the traveler the opportunity to fly to and from Mongolia on every day of the week. Flights to Ulaanbaatar under the current schedules are:

Airlines	Flights to Ulaanbaatar
MIAT (Mongolian Airlines)	<p>From:</p> <p><u>Beijing</u>: 7 days a week</p> <p><u>Berlin</u> via Moscow: Thursday, Sunday (27 March-28 Oct), Tuesday (until August 31), Saturday (until Sept 10)</p> <p><u>Moscow</u>: Thursday, Sunday (March 27-Oct 28)</p> <p><u>Seoul</u>: 7 days a week</p> <p><u>Tokyo</u>: Monday, Tuesday, Wednesday, Saturday and Sunday under summer schedule (direct flights); Monday and Friday under winter schedule (via Seoul)</p> <p><u>Osaka</u>: Tuesday, Friday (Jul-Sep)</p> <p><u>Hong Kong</u>: Monday, Wednesday, Thursday, Friday and Sunday (Summer schedule)</p>
Aeroflot, Moscow	<p>21 Jun - 20 Sep: 7 days a week</p> <p>From 21 Sep: Tuesday, Friday and Sunday (03 Jun - 28 Oct: also on Thursday)</p>
Air China, Beijing	7 days a week (summer schedule)
Korean Air, Seoul	7 days a week (summer schedule)
Turkish Airline, Istanbul	Tuesday, Thursday and Saturday (summer schedule)

Two national air carriers, Eznis Airways and Aero Mongolia, operate domestic flights in Mongolia as well as near destinations such as Ulan-Ude in Russia and Huh Hot in Inner Mongolia(China).

### Customs

Currently, customs declarations are required if items to be declared exceed USD 1,000, and/or more than USD 5,000 in cash, which must be accompanied by confirmation from the traveler's banking institution confirming the money was withdrawn from the bank. The customs declaration describes the currency and amount of money, valuables, and other items being imported. If a customs declaration is submitted, both forms would be stamped and one will be returned. The one that is returned must be submitted upon departure from Mongolia together with a departure declaration. The departure declaration again requests information concerning money and valuables being exported from the country. Typically, the authorities seek to confirm that valuables were not sold and that more money is not being taken out of the country than was brought in. Individuals are not permitted to take more than USD 5,000 cash out of the country.

### Registration

Within seven days of arrival in Mongolia, including weekends, the traveler must register with the Immigration Office if the person will stay in Mongolia over 30 days. Failure to do so may result in a fine upon departure of up to MNT1,000,000. The registration stamp is dated from the date of registration. Deregistration is not necessary.

### *Accommodations*

There are a number of business quality hotels in Ulaanbaatar. The Corporate Hotel, Kempinski Hotel Khan Palace, Ramada and Chinggis Khaan Hotel are newer hotels in the centre of town. The Bayangol Hotel, Ulaanbaatar Hotel and The Blue Sky hotel are also centrally located. The Terelj Hotel is a five star hotel situated in Gorkhi-Terelj National Park, ca. 50 km from the city.

#### **BAYANGOL HOTEL**

Rates: USD 110-400 (include 10% VAT)  
Breakfast is included  
Tel: +976-11-312255  
Fax: +976-11-326880

#### **BLUE SKY HOTEL**

Rates: USD 208-425 (10% VAT included)  
Breakfast is included  
Tel: +976-70100505

#### **CHINGGIS KHAAN HOTEL**

Rates: USD 125-650  
Tel: +976-11-313380  
Fax: +976-11-312788

#### **CORPORATE HOTEL**

Rates: USD 170-850 (10% VAT included)  
Breakfast is included  
Tel: +976-11-334411  
Fax: +976-11-334422

#### **KEMPINSKI HOTEL KHAN PALACE**

Rates: USD 98-518 (10% VAT included)  
Breakfast is included  
Tel: +976-11-463463  
Fax: +976-11-463464

#### **RAMADA HOTEL**

Rates: 150-270 USD (10% VAT included)  
Breakfast is included  
Tel: +976-7014-1111  
Fax: +976-7010-7777

#### **TERELJ HOTEL**

Rates: 110-3250 USD (10% VAT and 5% Service charge excluded)  
Breakfast is not included  
Phone: +976-99992233  
Fax: +976-7011-0067  
Email: reservation@tereljhotel.com



## ULAANBAATAR HOTEL

Rates: USD 110-1350 (10% VAT included)  
Breakfast is included  
Tel: +976-11-320620, +976-70116688  
Fax: +976-11-324485

### *Ulaanbaatar*

Ulaanbaatar is the capital and largest city with a population of over one million. Located in the north central part of the country, the city lies at an elevation of about 1,310 meters (4,300 ft) in a valley on the Tuul River. It is the cultural, industrial, and financial heart of the country. It is also the center of Mongolia's road network, and connected by rail to the Trans-Siberian Railway and the Chinese railway network.

Due to its high elevation, relatively high latitude, location hundreds of kilometres from any coast, and the effects of the Siberian anticyclone, Ulaanbaatar is the coldest national capital in the world, with a monsoon-influenced, subarctic semi-arid climate (Köppen climate classification BSk) with brief, warm summers and long, very cold and dry winters. Precipitation, at an annual total of 216 millimeters (8.50 in) is heavily concentrated in the warmer months. It has an average annual temperature of  $-0.7^{\circ}\text{C}$  ( $30.7^{\circ}\text{F}$ ).

### *Drivers / Car rental*

To ensure safe and comfortable trips in and outside Ulaanbaatar, we recommend business travelers to hire an experienced and reliable driver with a reliable car. Drivers are also a necessity for foreign business people in Ulaanbaatar as business hours in Mongolia can be long and sometimes irregular. For travels outside Ulaanbaatar jeeps with four-wheel drive are necessary, since most of countryside roads are not paved. Drivers with cars are most easily and reliably hired through the inviting organization. Very few drivers speak English or any other western European languages, however, more and more do understand directions and one should be able to communicate without a translator.

It is possible to hire a car with a driver from Sixt Mongolia (Tel/ Fax: +976-7011 0304 (Central Branch), +976-7011 8482 (Chinggis Khaan Hotel Branch), e-Mail: info@sixt.mn). Rates start from USD 64 a day for a short-term rental.

### *Interpreters*

Although many business people and government officials in Mongolia speak English, they conduct most meetings in Mongolian. In business negotiations even with English-speaking Mongolian counterparts, foreign business people sometimes find an interpreter useful. Interpreters could be best arranged through the inviting organization. The cost is approximately USD 100 per day. Outside Ulaanbaatar few Mongolians speak a foreign language.

### *Appointments*

Appointments are generally kept in Mongolia unless there is a good reason for breaking them. However, in the business climate in Mongolia, meetings can be frequently cancelled because other issues become even more urgent. Therefore, one should try not to schedule appointments more than two days in advance. If possible, confirm the appointment an hour before arrival.

### *Working Hours*

Standard working hours are nine to six, five days a week, with most people working a 40-hour week. Shops tend to be open later on weekdays and on Saturday, while most are also open on Sunday. Most offices close for an hour or so during the day between one and two p.m. for lunch. Banks and shops are usually open during lunch-break time.

### *Currency*

Mongolia has a cash and, increasingly, a credit economy. Plan to have cash (Tugrik) in the event that your credit card does not work at the restaurant or shop.

There are many foreign exchange points around, but it may be more reliable to use the banks or the hotels, where possible, since rates and security measures vary across the country. When changing money, worn or damaged bills should be avoided as most places accept only bills in good condition.

Automated teller machines (ATMs) can now be found in more and more places in Ulaanbaatar. ATMs typically dispense local currency and usually offer a reasonable exchange rate.

### *Public holidays*

Before investing in a round-trip ticket to Ulaanbaatar, it is prudent to be aware of the following official Mongolian public holidays:

2 days between the end of January and early March (dates vary every year)	Tsagaan Sar (Lunar New Year)
March 8	International Woman's Day
June 1	Mother and Child Day
July 11-13	Naadam (Mongolian national holiday)
November 26	Constitution Day

Christmas and Easter are not public holidays in Mongolia. Also, please be aware that approximately one week after the two-day Tsagaan Sar holidays as well as during summer holiday period (usually July-August) it might be difficult to meet business people and officials in Mongolia.

### *Safety*

In any city where disparities in income levels are large, crime tends to be targeted at the (comparatively) wealthy and Mongolia is no exception. Violent muggings are rare but do occur. Petty crime is common in Ulaanbaatar, particularly in markets or other crowded public places. Watch out for pickpockets.

Foreign visitors are advised not to dress in a flamboyant fashion and to be discreet in their conduct. It is also recommended to drink in moderation and to exercise caution when leaving nightclubs and discos late at night. In particular, use known taxis or arrange for a hotel or company car to pick you up. Hotel safes should be used, where possible, to avoid carrying excess sums of cash.

Ulaanbaatar is no different to many other big cities and care should be taken walking alone, especially at night, and in dealing with people who approach you in the street. When staying in a hotel room or apartment, never open the door for anyone who is unfamiliar.

While in a car, consider locking the doors as soon as you get in and keeping windows closed even if temperatures are high. Avoid driving late at night, especially in deserted areas. Always be alert in public places. If you are uncomfortable or suspicious of the situation, do not hesitate to alter your plans or route.

### *Traditions*

Mongolia is a fascinating country with a deep and varied culture. The Mongols are often considered to be one of the founding ancient civilizations of the world and many of the traditions, customs and etiquette true at the time of Gengghis Khan are still true today. As with any other civilizations, customs and beliefs are different than in other parts of the world, it is advisable that as a visitor to Mongolia you abide or at least try to understand the local customs, traditions and beliefs so that you may better understand the country as a whole. The traditions and beliefs of the Mongolian People are far too numerous to list all in here but here some suggestions to start with. As Mongolians are tolerant and friendly people, they will not expect you to be familiar with all their customs.

- Mongolians are sensitive to outward appearance and neat appearance is much appreciated. This can of course be problematic if you have travelled over huge distances and are feeling a little drained, but it is worth remembering.
- As Mongolians were all originally nomads, hospitality is seen as extremely important and there are some points to remember in connection with this. The first concerns food and drink: When you are offered something to eat or drink, always accept. If in reality you are not keen on eating or drinking that particular thing, take a nibble or sip, then put it down. It is considered rude to refuse outright. Similarly try not to show any negative feelings too openly if what has been offered is not to your taste. This also applies to being offered a shot of vodka: a touch to the lips will suffice if you do not want to drink.
- Be careful when visiting people's tents: Mongolians are keenly aware of their traditions, and there are many traditions concerning *gers*. Try to familiarise yourself with some of these traditions. The first of these is that it is considered unlucky to step on the door-step of the door-frame to the ger. The second is that guests should move to the left of the fireplace on entering the tent, and the host will indicate a suitable place to sit. If you have rented your own ger, then you are of course free to do as you wish.

### *Attractions*

Even though business in Mongolia can be time consuming, your schedule may allow you to see something of the city. Here are some ideas for Ulaanbaatar:

### *Monasteries*

Among the notable older monasteries is the Choijin Lama Monastery, a Buddhist monastery that was completed in 1908. It escaped the destruction of Mongolian monasteries when it was turned into a museum in 1942. Another is the Gandan Monastery, which dates to the 19th century. Its most famous attraction is a 26.5-meter-high golden statue of Migjid Janraisig. These monasteries are among the very few in Mongolia to escape the wholesale destruction of Mongolian monasteries under Khorloogiin Choibalsan.

### *Bogd Khan's Winter Palace*

Old Ikh Khüree, once the city was set up as a permanent capital, had a number of palaces and noble residences in an area called Öndgiin sürgiin nutag. The Jebtsundamba Khutughtu, who

was later crowned Bogd Khan, had four main imperial residences, which were located between the Middle (Dund gol) and Tuul rivers. The summer palace was called Erdmiin dalai buyan chuulgan süm or Bogd khaanii serüün ord. Other palaces were the White palace (Tsagaan süm or Gəngaa dejidlin), and the Pandelin palace (also called Naro Kha Chod süm), which was situated in the left bank of Tuul River. Some of the palaces were also used for religious purposes. The only palace that remains is the winter palace. The Winter Palace of the Bogd Khan (Bogd khaanii nogoon süm or Bogd khaanii öwliin ordon) remains as a museum of the last monarch. The complex includes six temples, many of the Bogd Khan's and his wife's possessions are on display in the main building.

### *Museums*

Ulaanbaatar has several museums dedicated to Mongolian history and culture. The Natural History Museum features many dinosaur fossils and meteorites found in Mongolia. The National Museum of Mongolian History includes exhibits from prehistoric times through the Mongol Empire to the present day. The Zanabazar Museum of Fine Arts contains a large collection of Mongolian art, including works of the 17th century sculptor/artist Zanabazar, as well as Mongolia's most famous painting, One Day In Mongolia by B. Sharav.

Pre-1778 artifacts that never left the city since its founding include the Vajradhara statue made by Zanabazar himself in 1683 (the city's main deity kept at the Vajradhara temple), a highly ornate throne presented to Zanabazar by the Kangxi Emperor (before 1723), a sandalwood hat presented to Zanabazar by the Dalai Lama (c. 1663), Zanabazar's large fur coat which was also presented by the Kangxi Emperor and a great number of original statues made by Zanabazar himself (e.g. the Green Tara).

Puzzle Toys Museum displays a comprehensive collection of complex wooden toys to be assembled by players using sophisticated methods.

### *Opera House*

The Ulaanbaatar Opera House, situated in the center of the city, hosts concerts and musical performances.

### *Sukhbaatar Square*

Sukhbaatar Square, in the government district, is the center of Ulaanbaatar. The square is 31,068 square meters in size. In the middle of Sükhbaatar Square, there is a statue of Damdinii Sukhbaatar on horseback. The spot was chosen because that was where Sukhbaatar's horse had urinated (a good omen) on July 8, 1921 during a gathering of the Red Army. On the north side of Sükhbaatar Square is the Mongolian Parliament building, featuring a large statue of Chinggis Khan at the top of the front steps. Peace Avenue (Enkh Taivny Urgan Chuloo), the main thoroughfare through town, runs along the south side of the square.

### *Zaisan Memorial*

The Zaisan Memorial, a memorial to Soviet soldiers killed in World War II, sits on a hill south of the city. The Zaisan Memorial includes a Soviet tank paid for by the Mongolian people and a circular memorial painting which in the socialist realism style depicts scenes of friendship between the peoples of Soviet Union and Mongolia. Visitors who make the long climb to the top are rewarded with a panoramic view of the whole city down in the valley.

### *National Sport Stadium*

National Sports Stadium is the main sporting venue. The Naadam festival is held here every July.

### *Surroundings*

Gorkhi-Terelj National Park, a nature preserve with many tourist facilities, is approximately 70 km from Ulaanbaatar and accessible via paved road.

Sky Resort, Mongolia's first dedicated ski area is located 13 km (8 mi) from Ulan Bator and opened in 2009. The resort has 9 runs of varying difficulty, and 7 lifts. It is located on Bogd Khan Uul.

### *Education*

The American School of Ulaanbaatar, the International School of Ulaanbaatar, the Elite School and the British School offer Western-style K-12 education in English for Mongolian nationals and foreign residents.

There are also a number of state and private local schools with instruction in Mongolian (partly in English in some private schools). The standards can be high, but the number of expatriate children in such schools is small.

### *Health Care*

More often than not, a change in diet and partaking of the local custom, vodka, is the cause of stomach complaints in Mongolia. The treatment usually requires a few days for acclimation. Although Mongolian citizens may believe that water out of the tap is drinkable, it is not recommended. Bottled water and soft drinks are readily available at stores and kiosks.

While Mongolia is presently not known for any particular diseases, travelers planning to spend extended periods of time in the country should make sure that they are up to date with diphtheria, hepatitis, rabies, tetanus, and typhoid vaccines. Even for short visits, it is strongly advisable to be appropriately vaccinated. Inoculation regulations can change at short notice. Consult a doctor or a travel clinic before traveling to Mongolia, allowing time for vaccination series.

Foreigners are advised to bring ample supplies of required medications for their use in an emergency, as the medicine supply in Mongolia tends to differ from what foreigners are used to in their home countries.

Health care facilities available to foreigners are limited. All Mongolian hospitals are very short of most medical supplies, including basic care items, drugs and spare parts for medical equipment. Doctors and hospitals may expect immediate cash payment for health services. Visitors are urged to have health insurance including cover for evacuation to Seoul and to take any regular medication with them.

For emergency care contact:

SOS Medica Mongolia Clinic

**Telephone:** +976-11-464325/26/27 Fax: +976-11-454537

For after hour emergencies: **Cell phone:** +976 9191 3122 (mongolian) +976 9911 0335 (english)

**E-mail:** admin@sosmedica.mn

**Web:** www.sosmedica.mn

## APPENDIX C – *Tax Rates*

<b>CIT</b>	10% for the first 3billion MNT (USD 2,2m approx) 25% thereafter 10% for investment income (royalties, dividends, interest) Varying rates for other specific types of income
<b>Tax Depreciation</b>	Straight line over useful economic life: 3 to 40 years.
<b>Withholding Tax</b>	Residents 10% Non-residents 20%
<b>Personal Income Tax</b>	10% Varying rates for other specific types of income
<b>VAT</b>	10%
<b>Immovable Property Tax</b>	0.6% 0.6% -1% from 1 January 2013

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**APPENDIX D** – *Double Tax Treaties*

Current

Austria  
Belgium  
Bulgaria  
Canada  
China (P.R.C.)  
Czech Republic  
France  
Germany  
Hungary  
India  
Indonesia  
Kazakhstan  
Korea (R.O.K.)  
Kuwait  
Kyrgyzstan  
Luxembourg  
Malaysia  
Netherlands  
Poland  
Russia  
Singapore  
Switzerland  
Turkey  
Ukraine  
United Kingdom  
Vietnam

United Arab Emirates  
Belarus  
Italy  
North Korea (DPRK)

Pending

Egypt  
Romania  
Uzbekistan  
Latvia  
Thailand



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