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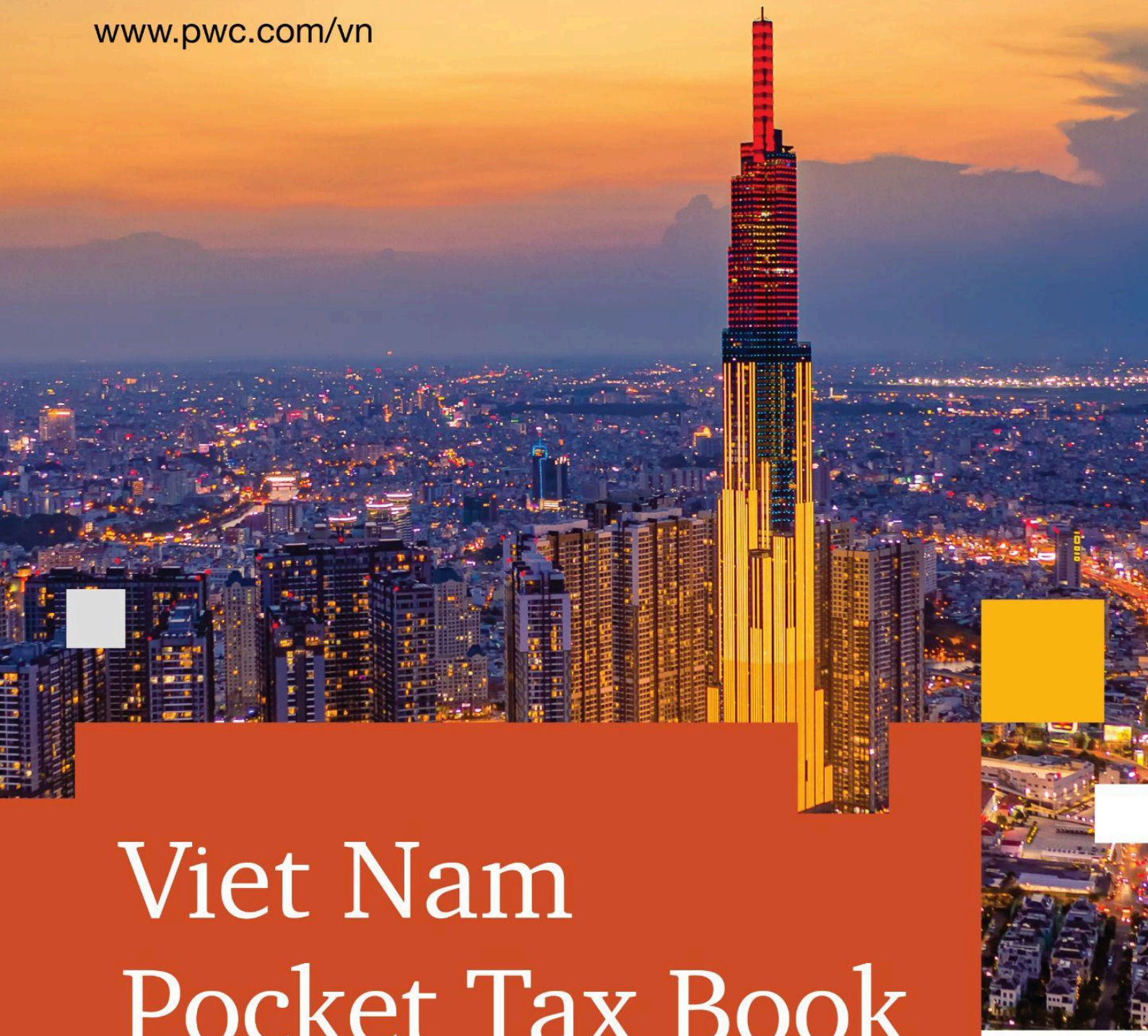

Viet Nam Pocket Tax Book 2024

pwc

30 years in Vietnam

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A summary of Viet Nam taxation

The information in this booklet is based on current taxation regulations and practice including certain legislative proposals as at 31 December 2023.

This booklet is intended as a general guide. Where specific transactions are being contemplated, definitive advice should be sought.

Taxation

General Overview

Most business activities and investments in Viet Nam will be affected by the following taxes:

- Corporate income tax;
- Various withholding taxes;
- Capital gains tax;
- Value added tax;
- Import duties;
- Personal income tax on Vietnamese and expatriate employees; and
- Social insurance, unemployment insurance and health insurance contributions.

There are various other taxes that may affect certain specific activities, including:

- Special sales tax;
- Natural resources tax;
- Property taxes;
- Export duties;
- Environment protection tax; and
- Land rental fee.

Corporate Income Tax ("CIT")

Tax rates

Companies are subject to the tax rates imposed under the CIT Law. The standard CIT rate is 20%. Effective from 1 July 2023, companies operating in the oil and gas industry are subject to CIT rates ranging from 25% to 50%. Companies engaging in prospecting, exploration and exploitation of certain mineral resources are subject to CIT rates ranging from 32% to 50%.

Tax incentives

Tax incentives are granted to new investment projects based on regulated encouraged activities, encouraged locations and the size of the projects, and to certain business expansion projects. New investment projects and business expansion projects do not include projects established as a result of certain acquisitions or reorganisations.

- The activities which are encouraged by the Vietnamese Government include education, health care, sport/culture, high technology, environmental protection, scientific research and technology development, infrastructural development, processing of agricultural and aquatic products, software production and renewable energy.
- New investment or expansion projects engaged in manufacturing industrial products prioritized for development (which include products that support the high technology,garment, textile, footwear, electronic spare parts, automobile assembly, and mechanical sectors) are entitled to CIT incentives if they meet certain conditions related to the products and the projects.
- Locations which are encouraged include qualifying economic and high-tech zones, certain industrial zones and designated difficult socio-economic areas.
- Large manufacturing projects (excluding those related to the manufacture of products subject to special sales tax or those exploiting mineral resources) are entitled to CIT incentives as follows:

✓ Projects with total capital of VND6,000 billion or more, disbursed within 3 years of being licensed, meeting either of the following criteria:

i. minimum revenue of VND10,000 billion/annum by the 4th year of operation; or

ii. head count of more than 3,000 by the 4th year of operation.

✓ Projects with total capital of VND12,000 billion or more, disbursed within 5 years of being licensed and using technologies appraised in accordance with relevant laws.

Special investment incentives are available for R&D and large investment projects specified in the Law on Investment. The CIT incentives vary depending on a number of criteria. The most favourable package comprises a preferential tax rate of 5% for a period of 37 years, 6 years of tax exemption, plus a 50% CIT reduction for a subsequent 13 years. In addition, there is also an exemption/reduction from land and water rental fees, for a period of time.

The two common preferential rates of 10% and 17% are available for 15 years and 10 years respectively, starting from the commencement of generating revenue from the incentivised activities. The duration of application of the preferential tax rates can be extended in certain cases. When the preferential rates expire, the CIT rate reverts to the standard rate. The preferential rate of 15% applies for the entire project life in certain cases. Certain social sectors (e.g. education, health) enjoy the 10% rate for the entire life of the project.

Taxpayers may also be eligible for tax holidays and reductions. The holidays take the form of an exemption from CIT for a certain period beginning immediately after the enterprise first makes profits from the incentivised activities, followed by a period where tax is charged at 50% of the applicable rate. However, where an enterprise has not derived taxable profits within 3 years of the commencement of generating revenue from the incentivised activities, the tax holiday/tax reduction will start from the fourth year of operation. Criteria for eligibility for these holidays and reductions are set out in the CIT regulations.

As noted above, R&D and investment projects which are entitled to special investment incentives would enjoy longer tax exemption and reduction periods.

Additional tax reductions may be available for companies engaging in manufacturing, construction and transportation activities which employ many female staff or ethnic minorities.

Certain incentives, including a lower CIT rate are granted to small and medium enterprises ("SMEs") (various criteria apply in order to be considered an SME).

Tax incentives which are available for investment in encouraged sectors do not apply to other income earned by a company (except for income which directly relates to the incentivised activities such as disposal of scrap), which is broadly defined. Of note, the availability/benefits of tax incentives may be affected by the Global Minimum Tax Policy that Viet Nam just approved, which came into effect from 1 Jan 2024. Please refer to Section "Base Erosion and Profit Shifting ("BEPS") initiatives for more details.

Calculation of taxable profit

Taxable profit is the difference between total revenue, whether domestic or foreign sourced, and deductible expenses, plus other assessable income.

Taxpayers are required to prepare an annual CIT return which includes a section for making adjustments to accounting profit to arrive at taxable profit.

Non-deductible expenses

Expenses are tax deductible if they relate to the generation of revenue, are supported by requisite documentation (including bank transfer vouchers where the invoice value is VND 20 million or above) and are not specifically identified as being non-deductible. Examples of non-deductible expenses include:

- Depreciation of fixed assets which is not in accordance with the prevailing regulations;
- Employee remuneration expenses which are not actually paid, or are not stated in a labour contract, collective labour agreement or company policies;
- Staff welfare (including certain benefits provided to family members of staff) exceeding a cap of one month's average salary. Non- compulsory medical and accident insurance is considered a form of staff welfare;
- Contributions to voluntary pension funds and life insurance for employees exceeding VND 3 million per month per person;
- Reserves for research and development not made in accordance with the prevailing regulations;
- Provisions for severance allowance and payments of severance allowance in excess of the prescribed amount per the Labour Code;
- Overhead expenses allocated to a permanent establishment ("PE") in Viet Nam by the foreign company's head office exceeding the amount under a prescribed revenue-based allocation formula;
- Interest on loans corresponding to the portion of any charter capital not yet contributed;
- Interest on loans from individuals exceeding 1.5 times the interest rate set by the State Bank of Viet Nam;
- Certain interest exceeding the cap of 30% of EBITDA;
- Provisions for stock devaluation, bad debts, financial investment losses, product warranties or construction work which are not made in accordance with the prevailing regulations;
- Unrealised foreign exchange losses due to the year-end revaluation of foreign currency items other than accounts payable;
- Donations except certain donations for education, health care, natural disaster or building charitable homes for the poor or for scientific research.
- Administrative penalties, fines, late payment interest; and
- Service fees paid to related parties that do not meet certain conditions.

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

Companies are allowed to set up a tax deductible R&D fund to which they can appropriate up to 10% of annual profits before tax. Various conditions apply.

Losses

Taxpayers may carry forward tax losses fully and consecutively for a maximum of five years. Losses arising from incentivised activities can be offset against profits from non-incentivised activities, and vice versa. Losses from the transfer of real estate and the transfer of investment projects can be offset against profits from other business activities. Carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

Administration

Companies are required to make quarterly provisional CIT payments based on estimates. The provisional CIT payments made in the 04 quarters must not account for less than 80% of the final CIT liability for the year.

Final CIT returns are filed annually. The annual CIT return must be filed and submitted not later than the last day of the third month after the fiscal year end. The outstanding tax payable must be paid at the same time.

The standard tax year is the calendar year. Companies are required to notify the tax authorities in cases where they use a tax year (i.e. fiscal year) other than the calendar year.

Profit remittance

Foreign investors are permitted to remit their profits annually after the financial year end or upon termination of the investment in Viet Nam. Foreign investors are not permitted to remit profits if the investee company has accumulated losses.

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

Transfer Pricing

Decree 132/2020/ND-CP ("Decree 132"), sets out the rules on transfer pricing in Viet Nam.

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

Related party definition

The ownership threshold required to be a 'related party' under Decree 132 is 25%. A company and certain individuals are also considered related parties in certain circumstances.

TP methodologies

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

The acceptable arm's length range is the 35th percentile to the 75th percentile.

Selection of comparables

Taxpayers must first look for comparables in the same local market or region, and then broaden to other countries in the region which have similar industry circumstances and economic development level.

TP declaration forms

Compliance requirements include an annual declaration of related party transactions and TP methodologies used, and a taxpayer confirmation of the arm's length value of their transactions (or otherwise the making of voluntary adjustments). Decree 132 requires that the TP method applied must ensure that there is no decrease of tax liabilities to the state budget, which could imply that no downward adjustments are allowed. Decree 132 contains a TP declaration form which requires disclosure of detailed information, including segmentation of profit and loss by related party and third party transactions.

Furthermore, taxpayers are required to make declarations of information contained in the local file and master file. This implies that this information should be available before the TP declaration forms are submitted to the tax authority. The TP declaration forms must be submitted together with the annual CIT return.

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

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

TP documentation

Companies which have related party transactions must also prepare and maintain contemporaneous TP documentation. Decree 132 introduced a three-tiered TP documentation approach to collect more tax-related information on multinational companies' business operations, specifically, a master file, a local file and country-by-country report ("CbCR"). The three-tiered TP documentation has to be prepared before the submission date of the annual tax return.

If the taxpayer's ultimate parent resides in Viet Nam and has worldwide consolidated revenues in the fiscal year of over VND 18,000 billion, the ultimate parent company in Viet Nam is responsible for preparing and submitting the CbCR. Under Decree 132, the CbCR is required to be filed with the tax authorities within 12 months from the fiscal year-end. However, if the ultimate parent is outside Viet Nam, the CbCR is not required to be filed locally, if the CbCR can be made available to the Vietnamese tax authorities through the automatic exchange of information ("AEOI") procedure. A company is however required to submit the CbCR and relevant notification locally in certain circumstances.

Under Decree 132, a taxpayer is exempt from preparing transfer pricing documentation if one of the following conditions is met:

- has revenue below VND 50 billion and total value of related party transactions below VND 30 billion in a tax period; or
- concludes an advance pricing agreement ("APA") and submits annual APA report(s); or
- has revenue below VND 200 billion, performs simple functions and achieves at least the following ratios of earnings before interest and tax to revenue from the following businesses: distribution (5%), manufacturing (10%), processing (15%); or
- only has domestic related party transactions,and related parties have the same tax rate; and none of the parties enjoy tax incentives.

TP audits

There has been a marked increase in the number of transfer pricing audits performed in recent years, with these adopting an increasingly sophisticated approach. Common challenges by the tax authorities include questions on the validity of comparables selected in TP documentation, deductibility of intra-group service charges and fluctuations in segmented and/or whole company profit margins over years. Companies in loss-making positions also draw attention from the tax authorities and are expected to be in a position to explain their business circumstances. Most general tax audits will now include a review of the taxpayer's transfer pricing position.

30% of EBITDA cap on total interest expenses

Under Decree 132, the cap on tax deductibility of interest increased from 20% to 30% of EBITDA. The cap applies to net interest expense (i.e. after offsetting with interest income from loans and deposits).

Non-deductible interest expenses can be carried forward to the subsequent five years. Certain types of financing are excluded from the cap, including interest on official development assistance (ODA) loans, various preferential loans made by the government, and loans made for implementing national programs and state social benefit policies.

Advance Pricing Agreement ("APA")

According to Decree 126/2020/ND-CP and Circular 45/2021/TT-BTC, taxpayers have the option to enter into unilateral, bilateral or multilateral APAs with the tax authorities.

Transactions proposed for an APA application must satisfy certain conditions. A key condition is that related party transactions are not subject to tax dispute/ tax appeal.

The APA application process comprises five stages, prefiling (optional), official filing, assessment, discussion & negotiation and conclusion. During the APA assessment stage, the tax authorities can apply tax administrative measures to verify the completeness, accuracy, validity and appropriateness of information and documents provided by taxpayers. There is no specific timeline for each stage of the application.

The effective APA period is 3 years, but cannot exceed the number of years the taxpayers operate in Viet Nam.

Base Erosion and Profit Shifting ("BEPS") initiatives

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting

On 9 February 2022, Viet Nam signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("the Convention" or "the MLI"), and became the 99th jurisdiction to join the Convention. The Convention enters into force.

- with respect to taxes withheld at source on amounts paid or credited to non-residents, from 1 Jan 2024; and
- with respect to all other taxes levied by Viet Nam, from 1 Jan 2025.

This is a milestone in the course of the implementation of the BEPS Action Plan in Viet Nam after Viet Nam became the 100th member of the BEPS Inclusive Framework in 2017.

As a result, up to 75 of Viet Nam's double tax agreements ("DTAs") could be altered. Taxpayers should be aware of these potential changes to DTAs and the impact these may have on their plans for structuring their investments and transactions in Viet Nam.

Pillar 2

Under the BEPS Pillar 2 model issued by the OECD, each in-scope multinational enterprise should pay a minimum effective tax rate of 15% on profits in each of the jurisdictions where they operate.

On 29 November 2023, the Resolution on Global Minimum Tax policy in Viet Nam ("the Resolution") was approved by the National Assembly and came into effect on 1 Jan 2024.

The Resolution provides that Viet Nam will adopt (i) the Qualified Domestic Minimum Top-Up Tax ("QDMTT") rule and (ii) the Income Inclusion Rule ("IIR"). Both rules are intended to protect Viet Nam's tax revenue in the context of Pillar 2 global implementation. The QDMTT rule essentially targets foreign inbound investment while the IIR targets Viet Nam's outbound investment.

	QDMTT	IIR
In-scope taxpayers	Vietnamese subsidiaries of multinational enterprises ("MNE") whose foreign Ultimate Parent Entity ("UPE") has revenue in its consolidated financial statements of at least EUR 750 million in at least two of the four fiscal years immediately preceding the fiscal year under review.	Vietnamese UPE or intermediate parent company or partially-owned parent entity located in Viet Nam that owns (directly or indirectly) a low-taxed subsidiary at any time during the fiscal year and has revenue in its consolidated financial statements of at least EUR 750 million in at least two of the four fiscal years immediately preceding the fiscal year under review.
Mechanism	In-scope taxpayers shall pay a top up tax equal to the top-up tax percentage (15% minus the group effective tax rate of all constituent entities in Viet Nam) multiplied by the excess profit for each fiscal year. The calculation of Global Anti-Base Erosion ("GloBE"), income, excess profit and effective tax rate in Viet Nam is determined by reference to all constituent entities, regardless of their profit or loss position, following the OECD's GloBE rules.	In-scope taxpayers shall pay tax in an amount equal to their allocable share of the top-up tax of that low-taxed constituent entity for the fiscal year.

Following the OECD's GloBE rules, the top-up tax will be paid to the central state budget, unlike corporate income tax which is shared between central and provincial state budgets.

Tax filing obligations:

- In-scope taxpayers must submit GloBE information returns, supplementary corporate income tax returns and explanations of differences arising from the adaptation of different accounting standards (this seems to be the material competitive distortion as referred to in the OECD guidance). The submission deadlines are as follows:
    - For QDMTT: 12 months after the fiscal year end.
    - For IIR: 18 months after the fiscal year end for the first fiscal year in scope and 15 months for subsequent fiscal years in scope.
- The tax payment deadline is the same as the filing deadline.

Safe harbour and penalty relief:

The Resolution introduces a transitional CbCR safe harbour rule that is the same as that in the OECD's GloBE rules. Accordingly, during the transition period, top-up taxes under QDMTT rule and/or IIR in a jurisdiction are nil if one of the following conditions is met:

- The multinational group ("MNE group") reports total revenue of less than EUR 10 million and profit before tax of less than EUR 1 million or loss making in such jurisdiction in its qualified CbCR for the fiscal year.
- The MNE group has a simplified effective tax rate that is equal to or greater than the transition rate for the fiscal year. The transition rate is 15% for fiscal years beginning in 2023 and 2024; 16% for fiscal years beginning in 2025; and 17% for fiscal years beginning in 2026.
- The MNE group's profit before tax in such jurisdiction is equal to or less than the substance-based income exclusion amount, for constituent entities resident in that jurisdiction under the CbCR, as calculated under the GloBE rules.
- Transitional penalty relief: Administrative penalties relating to tax filings will not be applied during the transition period. However, the Resolution is silent on whether late payment interest will be applied.

Foreign Contractor Tax ("FCT")

Scope of application

Foreign contractor tax is applied to foreign organisations and individuals undertaking business or earning income sourced from Viet Nam on the basis of agreements with Vietnamese parties (including foreign owned companies). FCT is not a separate tax, and normally comprises a combination of Value Added Tax ("VAT") and CIT, or Personal income tax ("PIT") for income of foreign individuals.

Payments subject to FCT include interest, royalties, service fees, leases rentals, insurance premiums, transportation fees, income from transfers of securities, and from goods supplied within Viet Nam or associated with services rendered in Viet Nam.

Certain distribution arrangements where foreign entities are directly or indirectly involved in the distribution of goods or provision of services in Viet Nam are subject to FCT – e.g. where the foreign entity retains ownership of the goods, bears distribution, advertising or marketing costs, is responsible for the quality of goods or services, making pricing decisions, or authorises/hires Vietnamese entities to carry out part of the distribution of goods/provision of services in Viet Nam.

Cases where FCT is exempt include pure supply of goods (i.e. where the responsibility, cost and risk relating to the goods passes at or before the border gate of Viet Nam and there are no associated services performed in Viet Nam), services performed and consumed outside Viet Nam and various other services performed wholly outside Viet Nam (e.g. certain repairs, training, advertising, promotion, etc.).

Dividends

No withholding or remittance tax is imposed on profits paid to foreign corporate shareholders.

Interest

A withholding tax of 5% CIT applies to interest paid on loans from foreign entities. Offshore loans provided by certain government or semi-government institutions may obtain an exemption from interest withholding tax where a relevant double taxation agreement or inter-governmental agreement applies.

Interest paid on bonds (except for tax exempt bonds) and certificates of deposit issued to foreign entities is subject to 5% withholding tax.

Royalties

FCT applies to payments to a foreign entity for the right to use or for the transfer of intellectual property (including copyrights and industrial properties), transfer of technology or software.

FCT payment methods

Foreign contractors can choose among three methods for tax payment - the deduction method, the direct method and the hybrid method.

Method One – Deduction Method

This entails the foreign contractor registering for VAT purposes and filing CIT and VAT returns in the same way as a local entity. Foreign contractors can apply the deduction method if they meet all of the requirements below:

- They have a PE or are tax resident in Viet Nam;
- The duration of the project in Viet Nam is more than 182 days; and
- They adopt the full Viet Nam Accounting System, complete a tax registration and are granted a tax code.

The Vietnamese customer is required to notify the tax office that the foreign contractor will pay tax under the deduction method within 20 working days from the date of signing the contract.

If the foreign contractor carries out multiple projects in Viet Nam and qualifies for application of the deduction method for one project, the contractor is required to apply the deduction method for its other projects as well.

The foreign contractor will pay CIT at 20% on its net profits.

Method Two – Direct Method

Foreign contractors adopting the direct (or withholding) method do not register for VAT purposes or file CIT or VAT returns. Instead CIT and VAT are withheld by the Vietnamese customer at prescribed rates from the payments made to the foreign contractor. Various rates are specified according to the nature of the activities performed. The VAT withheld by the Vietnamese customer is generally an allowable input credit in its VAT return.

Separate requirements for FCT declarations under this method are provided for foreign contractors providing goods and services for exploration, development and production of oil and gas.

Method Three – Hybrid Method

The hybrid method allows foreign contractors to register for VAT and accordingly pay VAT based on the deduction method (i.e. output VAT less input VAT), but with CIT being paid under the direct method rates on gross turnover.

Foreign contractors wishing to adopt the hybrid method must:

- Have a PE in Viet Nam or be tax resident in Viet Nam;
- Operate in Viet Nam under a contract with a term of more than 182 days; and
- Maintain accounting records in accordance with the accounting regulations and guidance of the Ministry of Finance.

Below are some FCT rates under the direct method applicable to certain cases:

Industry	Deemed VAT rate [2]	Deemed CIT rate
Supply of goods in Viet Nam or associated with services rendered in Viet Nam (including in-country export-import and import, distribution of goods in Viet Nam or delivery of goods under Incoterms where the seller bears risks relating to the goods in Viet Nam)	Exempt [1]	1%
Services	5%	5%
Restaurant, hotel and casino management services	5%	10%
Construction, installation without supply of materials, machinery or equipment.	5%	2%
Construction, installation with supply of materials, machinery or equipment.	3%	2%
Transportation	3% [3]	2%
Interest	Exempt	5%
Royalties	Exempt [4]	10%
Transfer of securities	Exempt	0.1%
Financial derivatives	Exempt	2%
Other activities	2%	2%

(1) VAT will not be payable where goods are exempt from FCT-VAT or where import VAT is paid upon importation.
(2) The supply of goods and/or services to the oil and gas industry is subject to 10% VAT rate. Certain goods or services may be VAT exempt or subject to 5% VAT.
(3) International transportation is subject to 0% VAT.
(4) Computer software, transfers of technology and intellectual property rights (including copyrights and industrial properties) are VAT exempt. Other royalties may attract VAT.

Taxing foreign e-commerce businesses

Circular 80/2021 stipulates a tax filing mechanism for foreign companies doing e-commerce, digital business and other business in Viet Nam without a permanent establishment. There are specific definitions of e-commerce and digital business. Foreign companies will be granted a tax code and declare tax online at the portal of the General Department of Taxation ("GDT") on a quarterly basis and pay tax online.

If such foreign companies do not directly register, declare and pay tax in Viet Nam, Vietnamese organisations and parties have the following responsibilities.

- If the Vietnamese customers are registered businesses, they have to withhold and declare tax on behalf of the foreign companies (similar to the current mechanism of foreign contractor tax).
- If the Vietnamese customers are individuals, then the banks or payment intermediary companies are required to withhold and declare tax on a monthly basis. The Vietnamese tax authorities will provide the names and websites of such foreign companies to the banks and/or payment intermediaries for such tax withholding.
- If the individuals use cards or other payment methods from which the banks or payment intermediary companies cannot withhold, the banks or payment intermediary companies are required to track and report payments made to the foreign companies to the Vietnamese tax authorities on a monthly basis.

The GDT officially launched the portal for direct tax registration, declaration and payments by e-commerce companies in Viet Nam on 21 March 2022. The GDT also published the names of the foreign companies registering up to October 2023.

The Government also issued Decree 85/2021 setting out, inter alia, new rules on e-commerce detailing obligations of foreign traders that have e-commerce activities in Viet Nam.

Double Taxation Agreements ("DTAs")

The FCT-CIT may be affected by a relevant DTA. For example, the 5% CIT withholding on services supplied by a foreign contractor may be eliminated under a DTA if the foreign contractor does not have profits attributable to a PE in Viet Nam.

Viet Nam has signed around 80 DTAs and there are a number of others at various stages of negotiation. Please see the summary at Appendix I – list of DTAs. The signed DTA with the United States of America is not yet in force.

As mentioned under Section Base Erosion and Profit Shifting ("BEPS") initiatives, Viet Nam's DTAs may be subject to some amendments.

There are various guidelines on the application of DTAs. These include regulations relating to beneficial ownership and general anti-avoidance provisions. DTA entitlements will be denied where the main purpose of an arrangement is to obtain beneficial treatment under the terms of a DTA (treaty shopping) or where the recipient of the income is not the beneficial owner. The guidance dictates that a substance over form analysis is required for the beneficial ownership and outlines the factors to be considered, which include:

- Where the recipient is obligated to distribute more than 50% of the income to an entity in a third country within 12 months;
- Where the recipient has little or no substantive business activities;
- Where the recipient has little or no control over or risk in relation to the income received;
- Back to back arrangements;
- Where the recipient is resident in a country which does not collect income tax or taxes at a low tax rate (below 10%) which is not for investment encouragement as specified in the DTAs; and
- Where the recipient is an intermediary or agent.

With respect to claims for DTA relief, the process changed from notification to approval with effect from 1 January 2022. A deadline for the tax authorities' review and assessment of DTA claims is introduced. Within 40 days upon receipt of sufficient documents, the tax authority is required to issue a decision which approves the amount of tax eligible for exemption/ reduction, or notifies in writing to taxpayers the reasons for any rejection of the claim.

Capital Gains Tax (“CGT”)

Gains derived from the sale of a Viet Nam company are in many cases subject to 20% CIT. This is generally referred to as capital gains tax (CGT) although it is not a separate tax as such. The taxable gain is determined as the excess of the sale proceeds less cost (or the initial value of contributed charter capital for the first transfer) less transfer expenses.

Where the vendor is a foreign entity, a Vietnamese purchaser is required to withhold the tax due from the payment to the vendor and account for this to the tax authorities. Where the purchaser is also a foreign entity, the Vietnamese enterprise which is transferred is responsible for the CGT administration and payment.

The tax authorities have the right to adjust the transfer price for CGT purposes where the price is not at an arms’ length market level.

Recently there has been a move to tax not only the transfer of a Vietnamese entity, but also the transfer of an overseas parent (direct or indirect) of a Vietnamese company. Under the 2019 tax administration law and its guiding instruments, the taxing position may be strengthened.

Transfers of securities (bonds, shares of public joint stock companies, etc.) by a foreign entity are subject to CIT on a deemed basis at 0.1% of the total sales proceeds. Gains derived by a resident entity from the transfer of securities are however taxed at 20%.

Value Added Tax ("VAT")

Scope of Application

VAT applies to goods and services used for production, trading and consumption in Viet Nam (including goods and services purchased from non-residents). A domestic business must charge VAT on the value of goods or services supplied.

In addition, VAT applies on the dutiable value of imported goods. The importer must pay VAT to the customs authorities at the same time they pay import duties. For imported services, VAT is levied via the FCT mechanism.

VAT payable is calculated as the output VAT charged to customers less the input VAT suffered on purchases of goods and services. For input VAT to be creditable, the taxpayer must obtain a proper VAT invoice from the supplier. For VAT paid on imports, the supporting document is the tax payment voucher, and for VAT collected via the FCT mechanism, the supporting document is the FCT payment voucher.

Goods or Services where VAT declaration and payment are not required

For these supplies, no output VAT has to be charged but input VAT paid on related purchases may be credited. These supplies include:

- Compensation, bonuses and subsidies, except those provided in exchange for certain services;
- Transfers of emission rights and various financial revenues;
- Certain services rendered by a foreign organisation which does not have a PE in Viet Nam where the services are rendered outside of Viet Nam, including repairs to means of transport, machinery or equipment, advertising, marketing, promotion of investment and trade; overseas brokerage activities for the sale of goods and services overseas, training, certain international telecommunication services;
- Certain transfers of projects;
- Sale of agricultural products that have not been processed into other products or which have only been through preliminary processing;
- Capital contributions in kind;
- Collections of compensation/indemnities by insurance companies from third parties;
- Collections on behalf of other parties which are not involved in the provision of goods/services (e.g. if company A purchases goods/services from company B, but pays to company C and subsequently company C pays to company B, then the payment from company C to company B is not subject to VAT);
- Commissions earned by (i) agents selling services, including postal, telecommunications, lottery, airlines/bus/ship/train tickets, at prices determined by principals; and (ii) agents for international transportation, airlines and shipping services entitled to 0% VAT; and (iii) insurance agents;
- Commissions from the sale of exempt goods/services; and
- Goods exported and then re-imported back to Viet Nam due to sales returns by overseas customers.

Exempt Goods and Services

There are stipulated categories of VAT exemption, including:

- Certain agricultural products;
- Goods/services provided by individuals having annual revenue of VND 100 million or below;
- Imported or leased drilling rigs, aeroplanes and ships of a type which cannot be produced in Viet Nam;
- Transfer of land use rights ("LUR") (detailed guidance is provided to specific cases);
- Financial derivatives and credit services (including credit card issuance, finance leasing and factoring); sale of VAT able mortgaged assets by the borrower under the lender's authorization in order to settle a guaranteed loan, and provision of credit information;
- Various securities activities including fund management;
- Capital assignment;
- Foreign currency trading;
- Debt factoring;
- Certain insurance services (including life insurance, health insurance, agricultural insurance and reinsurance);
- Medical services; elderly/disabled people care services;

- Teaching and training;
- Printing and publishing of newspapers, magazines and certain types of books;
- Passenger transport by public buses;
- Transfer of technology, software and software services except exported software which is entitled to 0% rate;
- Gold imported in pieces which have not been processed into jewellery;
- Exported natural resources which are unprocessed or processed but with at least 51% of their cost being natural resources and energy;
- Imports of machinery, equipment and materials which cannot be produced in Viet Nam for direct use in scientific research and technology development activities;
- Equipment, machinery, spare parts, specialised means of transport and necessary materials which cannot be produced in Viet Nam for prospecting, exploration and development of oil and gas fields;
- Postal, telecommunications, and public Internet services provided by the government; postal and telecommunications services from overseas to Viet Nam (inbound);
- Goods imported in the following cases: international non-refundable aid, including from Official Development Aid, foreign donations to government bodies and to individuals (subject to limitations); and
- Fertilizer, feed for livestock, poultry, seafood and other animals, machinery and equipment specifically used for agriculture.

Tax Rates

There are three VAT rates as follows:

0%	This rate applies to exported goods including goods sold to non-tariff areas and export processing companies, goods processed for export or in-country export (subject to conditions), goods sold to duty free shops, certain exported services, construction and installation carried out for export processing companies, aviation, marine and international transportation services.
5%	This rate applies generally to areas of the economy concerned with the provision of essential goods and services. These include: clean water; teaching aids; books; unprocessed foodstuffs; medicine and medical equipment; husbandry feed; various agricultural products and services; technical/scientific services; rubber latex; sugar and its by-products; certain cultural, artistic, sport services/products and social housing.
10%	This “standard” rate applies to activities not specified as not-subject to VAT, exempt or subject to 0% or 5%.

When a supply cannot be readily classified based on the tax tariff, VAT must be calculated based on the highest rate applicable for the particular range of goods which the business supplies.

Decree 44/2023/ND-CP stipulated a 2% VAT reduction (i.e. from 10% to 8%) for certain groups of goods and services from 01 July to 31 December 2023. On 29 November 2023, the National Assembly approved an extension of this 2% VAT reduction for the period from 1 January to 30 June 2024.

Exported Goods and Services

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

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

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

VAT Calculation Methods

There are two VAT calculation methods, the deduction method and the direct calculation method.

Method one Deduction method

This method applies to business establishments maintaining full books of accounts, invoices and documents in accordance with the relevant regulations, including:

- Business establishments with annual revenue subject to VAT of VND1 billion or more; and
- Certain cases voluntarily registering for VAT declaration under the deduction method.

- **Determination of VAT payable**

VAT payable = Output VAT – Input VAT

- **Calculation of output VAT**

The output VAT to be charged is calculated by multiplying the taxable price (net of tax) by the applicable VAT rate. With respect to imported goods, VAT is calculated on the import dutiable value plus import duty plus special sales tax (if applicable) plus environment protection fee (if applicable). For goods sold on an instalment basis (except for real estate), VAT is calculated on the total price without interest, rather than the instalments actually received.

- **Input VAT**

For domestic purchases, input VAT is based on VAT invoices. For imports, as there is no VAT invoice, input VAT credits are based on the tax payment voucher. Input VAT credits on payments of VND20 million or more can only be claimed where evidence of payment by bank is available. Input VAT withheld from payments to overseas suppliers (i.e. under the foreign contractor tax system) can also be claimed where the taxpayer makes VATable supplies.

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

Method two Direct method

This method applies to:

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

- **Determination of VAT payable**

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

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

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

Discounts and Promotions

Price discounts generally reduce the value on which VAT applies. However, certain types of discounts may not be permitted as a reduction before the calculation of VAT and various rules and conditions apply.

Goods and Services for internal consumption

Goods or services for internal use are not subject to output VAT, provided that they relate to the business of the company.

Administration

All organisations and individuals producing or trading VATable goods and services in Viet Nam must register for VAT. In certain cases, branches of an enterprise must register separately and declare VAT on their own activities.

Companies which have multiple business activities in different provinces, where such activities are accounted centrally at the head office, must declare VAT centrally at head office, but are required to apportion and pay such tax in the respective provinces. The allocation rule is applied in the following cases:

- Manufacturing dependent units/business locations
- Real estate transfer
- Construction activities (only applicable to VAT)
- Hydropower plants located in various provinces
- Electronic lottery business

The VAT payable allocated to manufacturing dependent units/business locations located in different provinces is the revenue before VAT of the respective manufacturing dependent unit/business location multiplied by 2% (for goods subject to 10% VAT) or 1% (for goods subject to 5% VAT). In the event that the allocated VAT payable according to the above formula is higher than the VAT payable of the head office, the allocated VAT payable should be re- calculated based on the VAT payable of the head office, prorated by the ratio of the revenue (before VAT) of the respective manufacturing dependent unit/business location over the total revenue of the company (before VAT).

Taxpayers must file VAT returns on a monthly basis by the 20th day of the subsequent month, or on a quarterly basis by the last day of the first month of the subsequent quarter (for companies with prior year annual revenue of VND 50 billion or less).

VAT Refunds

VAT refunds are only granted in certain cases, including:

- Exporters having excess input VAT credits over VND 300 million. The refunds are provided on a monthly or quarterly basis, in line with the VAT declaration period of the taxpayer. The amount of input VAT relating to export sales (meeting the criteria for VAT refunds) that can be refunded to a taxpayer must not exceed 10% of its export revenue. VAT refunds are available to companies which import goods and then export them without further processing subject to various conditions;
- New projects of companies adopting VAT deduction method which are in the pre-operation investment phase and have accumulated input VAT credits over VND 300 million. Exceptions include conditional investment projects which do not satisfy the requirements , or investment projects of companies whose charter capital has not yet been contributed as regulated; and
- Certain ODA projects, diplomatic exemption, foreigners buying goods in Viet Nam for consumption overseas.

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

Invoicing

E-invoices

E-invoices are compulsorily required from 1 July 2022 onwards.

Companies allowed to use e-invoices without verification codes from the tax authorities will be those in certain economic sectors such as electricity, petrol, telecommunication, natural water, credit institutions, insurance, medical, e-commerce, supermarkets, trading, transportations, etc as well as other companies which satisfy certain conditions.

Companies using e-invoices without verification code must transfer e-invoice data to the tax authorities, either directly or via an authorized e-invoicing service provider. If the companies transfer data directly to the tax authorities' portal, certain technical conditions for connection with the tax authorities' portal must be satisfied. Before using e-invoices (either with or without verification codes), companies must register and obtain approval from the tax authorities via the web portal of the GDT.

Property Taxes

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

In addition, owners of houses and apartments have to pay land tax under the law on non-agricultural land use tax. The tax is charged on the specific land area used based on the prescribed price per square meter and progressive tax rates ranging from 0.03% to 0.15%.

Special Sales Tax ("SST")

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

Imported goods (except for various types of petrol) are subject to SST at both the import and selling stages.

Taxable Price

The taxable price of domestically produced goods sold by a manufacturer/imported goods sold by an importer is the selling price exclusive of SST, VAT and environment protection fee. Where the selling price is not considered to be in line with the market price, the tax authorities may deem the taxable price. The taxable price of imported goods upon importation is the dutiable price plus import duties.

Where manufactured or imported goods are subsequently sold by a trading entity to entities which are not third parties, an anti-avoidance provision may impose a minimum taxable price in certain cases.

Tax Credits

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

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

Tax Rates

The Law on SST classifies items subject to SST into two groups:

Commodities	Service activities
cigarettes, liquor, beer, automobiles having less than 24 seats, motorcycles, airplanes, boats, petrol, air-conditioners up to 90,000 BTU, playing cards, votive papers; and	discotheques, massage, karaoke, casinos, gambling, lotteries, golf clubs and entertainment with betting.

The SST rates are as follows:

Products / services	Tax rates (%)
Cigar/Cigarettes	75
Spirit/Wine a) Spirit/Wine with ABV% ≥ 20° b) Spirit/Wine with ABV% < 20°	 65 35
Beer	65
Automobiles having less than 24 seats (From 1 March 2022 to 28 February 2027, the tax rate of battery-electric automobiles are 1%-3%)	10 - 150
Motorcycles with cylinder capacity above 125cm^3	20
Airplanes	30
Boats	30
Petrol	7 - 10
Air-conditioner (not more than 90,000 BTU)	10
Playing cards	40
Votive papers	70
Discotheques	40
Massage, karaoke	30
Casinos, jackpot games	35
Entertainment with betting	30
Golf	20
Lotteries	15

Green Taxes and Green Incentives Landscape

Green Taxes

On 17 November 2020, the National Assembly issued the Law on Environment 72/2020/QH14, which took effect from 1 January 2022, setting out guidance on environmental protection matters.

Environmental or green taxes include taxes on energy, transport, pollution and resources. Energy taxes are taxes on energy products and electricity used for transport, such as petrol and diesel, and for other purposes, such as fuel oils, natural gas, coal and electricity used in heating. While Viet Nam does not have a separate green taxes mechanism, Viet Nam has developed different types of taxes to tackle environmental matters.

Below are some key green taxes.

No.	Type of tax	Nature of tax	Specific tax base
1	**Special Sales Tax ("SST")**	Certain SST rules promote environmental protection, such as for automobiles, the SST rate depends on the cylinder capacity of the automobile. SST rates are reduced if automobiles use hybrid fuel or bioenergy, and lower SST rates apply to electric cars. Similarly, petrol with biofuel is subject to a lower tax rate than normal petrol.	Please refer to the SST section.
2	**Carbon emission quota**	In the new Law on Environment, the Government introduced the concept of a carbon trading plan and an intention to impose a cap on carbon emission. A carbon emission quota will apply to all manufacturing companies which emit carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF6) and nitrogen trifluoride (NF3).	Enterprises that are in the list of sectors producing greenhouse gas need to be inspected. Accordingly, these enterprises must build a plan to reduce their greenhouse gas emissions based on the quota provided, and they can also exchange, trade quota and carbon offsets.
3	**Natural Resources Tax ("NRT")**	Natural resources tax is payable by industries exploiting Viet Nam's natural resources including petroleum, minerals, natural gas, forestry products. Natural water used for agriculture, forestry, fisheries, salt industries and sea water for cooling purposes may be exempt from NRT provided that certain conditions are satisfied.	The tax rates vary depending on the natural resource being exploited, range from 1% to 40%, and are applied to the production output at a specified taxable value per unit. Various methods are available for the calculation of the taxable value of the resources, including cases where the commercial value of the resources cannot be determined. Crude oil, natural gas and coal gas are taxed at progressive rates depending on the average daily production output.

<table>
<tr>
<td>4</td>
<td>Environment protection taxes (“EPT”)</td>
<td>EPTF is applicable to the production and importation of certain goods deemed detrimental to the environment, the most significant of which are petroleum and coal.</td>
<td>The rates are as follows:
<table>
<tr><th>Goods</th><th>Unit</th><th>Tax rate (VND)</th></tr>
<tr><td>Petrol, diesel, grease, etc.</td><td>litre/kg</td><td>600 - 2,000</td></tr>
<tr><td>Coal</td><td>ton</td><td>15,000 - 30,000</td></tr>
<tr><td>HCFCs</td><td>kg</td><td>5,000</td></tr>
<tr><td>Plastic bags (*)</td><td>kg</td><td>50,000</td></tr>
<tr><td>Restricted use chemicals</td><td>kg</td><td>500 - 1,000</td></tr>
</table>
* Excludes plastic bags used for packaging or which are “environmentally friendly”.</td>
</tr>
</table>

Except for the above-mentioned taxes, companies may be subject to environmental protection fees, or may be required to make deposits to the Environmental protection fund, make contributions to the Viet Nam Environment Protection Fund, make compensation for damage to the environment, purchase environmental insurance, etc, depending on their sector and activities.

Green Incentives

Green incentives are financial benefits to encourage projects and investments that reduce environmental harm. They include environmental cash grants and tax incentives.

Apart from the above, in-scope projects shall be granted other incentives schemes such as land related benefits, e.g. priority in the allocation of land, reduction of land rental; lower interest rate; exemption from and reduction of environmental protection taxes and fees; subsidies for environmental-friendly products and services; etc.

Import and Export Duties

Import duties

Most goods imported into Viet Nam are subject to import duty except when they meet the conditions for exemption.

Import duty is computed on an ad valorem basis, i.e. multiplying the imported good's dutiable value by the corresponding import duty rate.

Import duty rates are classified into three categories: ordinary rates, preferential rates, and special preferential rates.

Preferential rates are applicable to imported goods from countries that have most-favoured-nation (MFN, also known as normal trade relations) status with Viet Nam. The MFN rates are in line with Viet Nam's World Trade Organization (WTO) commitments and are applicable to goods imported from other WTO member countries.

Special preferential rates are applicable to imported goods from countries that have a special preferential trade agreement (or Free Trade Agreement) with Viet Nam. Currently, effective free trade agreements (FTAs) to which Viet Nam is a party include:

- The ASEAN Trade in Goods Agreement (i.e. the ATIGA);
- The Agreement on Comprehensive Economic Partnership among Member States of the Association of Southeast Asian Nations and Japan (i.e. the AJCEP);
- The Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the People's Republic of China (i.e. the ACFTA);
- The ASEAN – Hong Kong, China Free Trade Area (i.e. the AHKFTA);
- The Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India (i.e. the AIFTA);
- The Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation among the Governments of the Member Countries of the Association of Southeast Asian Nations and the Republic of Korea (i.e. the AKFTA);
- The Agreement establishing the Asean-Australia-New Zealand Free Trade Area (i.e. the AANZFTA);
- The Regional Comprehensive Economic Partnership Agreement between ASEAN Member States and Australia, China, Japan, the Republic of Korea, and New Zealand (i.e. the RCEP);
- The Free Trade Agreement between the Government of the Republic of Chile and the Government of the Socialist Republic of Viet Nam (i.e. the VCFTA);
- The Free Trade Agreement between the Socialist Republic of Viet Nam and European Union (i.e. the EVFTA);
- The Free Trade Agreement between the Socialist Republic of Viet Nam, of the one part, and the Eurasian Economic Union and its Member States, of the other part (i.e. the VN – EAEU FTA);
- The Free Trade Agreement between the Socialist Republic of Viet Nam and the State of Israel (i.e. the VIFTA);
- The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (i.e. the CPTPP);
- The Free Trade Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the Republic of Korea (i.e. the VKFTA);
- The Agreement between Japan and the Socialist Republic of Viet Nam for an Economic Partnership (i.e. the VJEPA); and
- The Free Trade Agreement between the Socialist Republic of Viet Nam and the United Kingdom of Great Britain and Northern Ireland (i.e. the UKVFTA).

In addition, negotiations on FTAs with the European Free Trade Association (Viet Nam and Iceland, Liechtenstein, Norway, and Switzerland) and with the United Arab Emirates (UAE) are in progress. Negotiations on an FTA between ASEAN and Canada have been in progress since November 2021.

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

Import VAT is also applied to imported goods at a rate most commonly of 5% or 10%. In 2023, the goods subject to the import VAT rate of 10% were eligible for a reduced VAT rate of 8%. This reduced VAT rate is applicable from 01 July 2023 to 30 June 2024, excluding the following categories of goods:

- Metals and fabricated metal products, certain mining products, coke, refined petroleum, chemical products; and
- Goods subject to SST.

Customs valuation

In principle Viet Nam follows the WTO Valuation Agreement with certain variations. The dutiable value of imported goods is typically based on the transaction value (i.e. the price paid or payable for the imported goods, and where appropriate, adjusted for certain dutiable or non-dutiable elements). Where the transaction value is not applied, alternative methodologies for the determination of the dutiable value will be used.

Exemptions

Import duty exemptions are provided for projects which are classified as in encouraged sectors/locations and other goods imported in certain circumstances.

Categories of import duty exemption include:

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

Refunds

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

- Goods for which import duties have been paid but which are not actually physically imported;
- Imported goods that are not used and which must be re-exported;
- Imported goods that were imported for the production of goods for the domestic market but are later used for manufacturing for exported goods.

Export Duties

Export duties are charged only on a few items, basically natural resources including sand, chalk, marble, granite, ore, crude oil, forest products, and scrap metal. Rates range from 0% to 40%. The tax base for the computation of export duties is the FOB /Delivered At Frontier price, i.e. the selling price at the port of departure as stated in the contract or invoice excluding international freight and insurance costs. In case the customs values of the exported goods cannot be determined using the transaction value method, they will be determined by the customs authority using, sequentially, the following customs valuation bases: the transaction prices of similar exported goods in the customs authorities' pricing database, the selling prices of similar goods in the local market with certain adjustments, or the selling prices of exported goods collected, classified & adjusted by the customs authorities.

Other taxes potentially imposed on imports

In addition to import duty and import VAT, there are other taxes that may be applied to imported goods. These taxes include special sales tax, environment protection tax, anti-dumping tax, safeguard tax and anti-subsidy tax, which are applied to a limited number of goods.

Customs audits

The customs authorities perform post customs audits either at their offices or at the taxpayers' premises. These inspections normally focus on issues including HS code classification, valuation, origin of goods, and customs finalisation reports on duty-exempt materials imported for processing or manufacturing of goods for export.

Personal Income Tax ("PIT")

Tax Residency

Residents are those individuals meeting one of the following criteria:

- Residing in Viet Nam for 183 days or more in a tax year; or
- Having a permanent residence in Viet Nam (including a registered residence which is recorded on the permanent / temporary residence card, or a rented house in Viet Nam with a lease term of 183 days or more in a tax year) and unable to prove tax residence in another country.

Tax residents are subject to Vietnamese PIT on their worldwide taxable income, wherever it is paid or received. Employment income is taxed on a progressive tax rate basis. Other income is taxed at a variety of different rates.

Individuals not meeting the conditions for being tax resident are considered tax non-residents. Tax non-residents are subject to PIT at a flat tax rate of 20% on their Viet Nam related employment income, and at various other rates on their non-employment income. However, this will need to be considered in light of the provisions of any DTA that might apply.

Tax Year

The Vietnamese tax year is the calendar year. However, where in the calendar year of first arrival an individual is present in Viet Nam for less than 183 days, his / her first tax year is the 12 month period from the date of arrival. Subsequently, the tax year is the calendar year.

Employment Income

The definition of taxable employment income is broad and includes all cash remuneration and various benefits-in-kind. However, the following items are not subject to tax:

- Payments for business trips;
- Payments for telephone charges / stationery costs;
- Office clothes (subject to a cap if the office clothes are provided in cash);
- Overtime premium (i.e. the additional payment above the normal wage, not the full amount of the overtime/nightshift payment);
- One-off allowance for relocation
  - from Viet Nam for Vietnamese working overseas
  - to Viet Nam for expatriates working in Viet Nam
  - to Viet Nam for Vietnamese residing overseas on a long term basis and returning to Viet Nam to work;
- Transportation to and from work;
- Once per year home leave round trip airfare for expatriate employees and Vietnamese working overseas;
- School fees up to high school in Viet Nam (for children of expatriates working in Viet Nam) / overseas (for Vietnamese working overseas);
- Training;
- Mid-shift meals (subject to a cap if the meals are provided in cash);
- Certain benefits in kind provided on a collective basis (e.g. membership fee, entertainment, healthcare);
- Airfares for employees working on a rotation basis in a number of industries (e.g. petroleum, mining);
- Employer's contributions to certain local and overseas non-mandatory insurance schemes without payout of accumulated premiums to the employees (e.g. medical insurance, accident insurance); and
- Allowances / benefits for wedding, funeral (subject to a cap).

There are a range of conditions and restrictions applicable to the above exemptions.

Non-employment Income

Taxable non-employment income includes:

- Business income (including rental income in excess of VND100 million/year);
- Investment income (e.g. interest, dividends);
- Gains on sale of shares;
- Gains on sale of real estate;
- Inheritances in excess of VND10 million;
- Winning prizes/gifts in excess of VND10 million (excluding income from winnings at casinos);
- Income from copyright / franchising / royalties / receiving gifts in excess of VND10 million.

Non Taxable Income

Non taxable income includes:

- Interest earned on deposits with credit institutions / banks and on life insurance policies;
- Compensation paid under life / non-life insurance policies;
- Retirement pensions paid under the Social Insurance law (or the foreign equivalent);
- Income from transfer of properties between various direct family members;
- Inheritances / gifts between various direct family members;
- Monthly retirement pensions paid under voluntary insurance schemes;
- Income of Vietnamese vessel crew members working for foreign shipping companies or Vietnamese international transportation companies.

Foreign Tax Credits

In respect of tax residents who have overseas income, PIT paid in a foreign country on the foreign income is creditable.

Tax Deductions

Tax deductions include:

1. Employee contributions to mandatory social, health and unemployment insurance schemes;
2. Contributions to local voluntary pension schemes (subject to a cap);
3. Employee contributions to certain approved charities;
4. Tax allowances:
    - Personal allowance: VND 11 million/month;
    - Dependent allowance: VND 4.4 million/month/dependent. The dependent allowance is not automatically granted, and the taxpayer needs to register qualifying dependents and provide supporting documents to the tax authority.

PIT Rates

Residents - employment income

Annual Taxable Income (million VND)	Monthly Taxable Income (million VND)	Tax rate
0 – 60	0 – 5	5%
60 – 120	5 – 10	10%
120 – 216	10 – 18	15%
216 – 384	18 – 32	20%
384 – 624	32 – 52	25%
624 – 960	52 – 80	30%
More than 960	More than 80	35%

Residents – other income

Type of taxable income	Tax rate
Business income	0.5% - 5% (based on the type of business income)
Interest (but not bank interest) / dividends	5%
Sale of shares	0.1% of the sales proceeds
Capital assignment	20% of the net gain
Sale of real estate	2% of the sales proceeds
Income from copyright	5%
Income from franchising / royalties	5%
Income from winning prizes	10%
Income from inheritances / gifts	10%

Non-residents

Type of taxable income	Tax rate
Employment income	20%
Business income	1% - 5% (based on the type of business income)
Interest (but not bank interest) / dividends	5%
Sale of shares/ Capital assignment	0.1% of the sales proceeds
Sale of real estate	2% of the sales proceeds
Income from copyright	5%
Income from royalties / franchising	5%
Income from winning prizes	10%
Income from inheritance / gifts	10%

Administration

Tax codes

Individuals who have taxable income are required to obtain a tax code. Those who have taxable employment income must submit the tax registration file to their employer who will subsequently submit this to the local tax office. Those who have other items of taxable income are required to submit their tax registration file to the district tax office of the locality where they reside.

Tax declarations and payment

For employment income, tax has to be declared and paid on a monthly or quarterly basis by the 20th day of the following month or by the last day of the month following the reporting quarter, respectively. The amounts paid are reconciled to the total tax liability at the year-end. An annual final tax return must be submitted and any additional tax must be paid, by the last day of the 3rd month of the following tax year for employer PIT returns and by the last day of the 4th month of the following tax year for individual PIT returns.

Expatriate employees who are tax residents are also required to carry out PIT finalisation on completion of their Viet Nam assignment. Expatriate employees should review and reconcile their payment history to ensure taxes are duly paid/updated. Tax refunds are only available to those who have a tax code.

Vietnamese companies are required to submit a notification to the local tax authorities providing information on any of them foreign contractor's employees (including their name, income information, passport number, etc.) that are sent to provide services in Viet Nam at least 7 days before the individuals start working in Viet Nam.
For non-employment income, an individual is required to declare and pay PIT in relation to each type of taxable non-employment income. The PIT regulations require income to be declared and tax paid on a receipts basis (except rental income which can be declared and tax can be paid on an annual basis).

Withholding obligations for payments to business individuals

Companies paying bonuses, cash and non cash support, promotion, trade discount, payment discount, and compensation to business households or business individuals which pay tax on a deemed basis are required to withhold PIT and VAT from such payments.

Social, Health and Unemployment Insurance Contributions

Unemployment insurance ("UI") contributions are applicable to Vietnamese individuals only.

Health insurance ("HI") contributions are required for Vietnamese and foreign individuals that are employed under Viet Nam labour contracts for at least three months.

Social Insurance ("SI") contributions are payable by Vietnamese individuals with labour contracts and foreign individuals working in Viet Nam, holding a work permit, and employed under a Viet Nam labour contract with an indefinite term or a definite term of 1 year or more.

Certain foreign employees internally transferred within a group and employees who have reached the statutory retirement age are not subject to compulsory SI contributions.

SI/HI/UI contribution rates are as follows:

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

The income subject to SI/HI/UI contributions includes salary, certain allowances and other regular payments as stated in labour contract, but this is capped at 20 times the minimum salary for SI/ HI contributions and 20 times the minimum regional salary for UI contributions. The minimum salary and minimum regional salary is set by the government and reviewed annually.

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

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

Other Taxes

Numerous other fees and taxes can apply in Viet Nam, including business licence tax and registration fees (akin to stamp duty) on the transfer of certain registrable assets.

Tax Audits, Appeals and Litigation

Tax audits are carried out regularly and often cover a number of tax years. Prior to an audit, the tax authorities send the taxpayer a written notice specifying the timing and scope of the audit inspection.

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

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

As regulated, if taxpayers do not agree with the outcome of a tax audit, they may consider going through a tax appeal process (which may comprise two stages). Alternatively, taxpayers can bring the case to court.

Various time limits apply for the instigation of such action.

Accounting and Auditing

Accounting framework

Vietnamese Accounting Standards

From 2001 to 2005 the MoF issued 26 Vietnamese Accounting Standards based on the old versions of the respective International Accounting Standards with certain adaptations to fit Viet Nam's circumstances. In comparison to International Financial Reporting Standards ("IFRS"), up to now, accounting standards related to financial instruments, impairment of non-current assets, fair value, etc. have not been issued yet.

Accounting Law and applicable implementation guidance

In Viet Nam, the Accounting Law is the highest accounting regulation issued by the National Assembly. Accounting issues are further guided and governed by various decisions, decrees, circulars, official letters and Vietnamese Accounting Standards.

The Vietnamese accounting framework consists of the Vietnamese Accounting System, Vietnamese Accounting Standards and various guidance applicable for accounting (collectively referred to as "VAS"). The Vietnamese Accounting System is a common accounting source to be referred to in accounting practice, which provides a standard chart of accounts, financial statements template, accounting books and voucher templates, as well as detailed guidance on accounting double entries for specific transactions. Accordingly, the Vietnamese Accounting System is mainly rules-based rather than principles-based.

There are industry-specific accounting guidelines for credit institutions, insurance companies, securities companies, fund management, investment funds, and oil and gas operators. The accounting guidelines for credit institutions are issued by the State Bank of Viet Nam, others are issued by the MoF.

General regulations on accounting

- **Framework:** Vietnamese Accounting System, Vietnamese Accounting Standards and applicable regulations.
- **Language:** Accounting records are required to be maintained in the Vietnamese language, but this can be combined with a commonly used foreign language.
- **Accounting period:** Financial year is 12 months in length. The first accounting period of the newly established entities must not exceed 15 months from the Enterprise Registration Certificate date. Similarly, the last accounting period must not be longer than 15 months.
- **Currency:** The currency used in accounting is Vietnamese Dong ("VND"). Entities that receive and make payments mainly in foreign currencies can select that foreign currency to be used as their accounting currency and to prepare financial statements provided that they meet all the stipulated requirements. However, for statutory reporting, entities using another currency as their accounting currency must convert their financial statements prepared in that currency into VND pursuant to certain prescribed regulations.
- **Accounting documents:** Accounting documents can be stored either in hard copies or electronic files. Entities that use electronic documents are not required to print them out for storage purposes. If the relevant authorities request copies for testing, inspection, monitoring and auditing, these entities have to print out electronic accounting documents and have them signed by their legal representatives or chief accountants.
- **Seal:** Companies are permitted to decide the form, quantity and contents of their official seals. The management, use and storage of an entity's seal must comply with its charter.
- **Retention:** Five years for documents used for management or operation of the company; ten years for documents directly used to record accounting books and prepare financial statements, accounting books and annual financial statements.

Lack of accounting records is a basis for assessing non-compliance with VAS. The tax authorities can treat non-compliance with VAS as a basis for tax reassessment and imposition of penalties, including withdrawal of CIT incentives, disallowance of expenses and denial of input VAT credits/refunds.

Financial reporting

The basic set of financial statements prepared under VAS comprises the following:

- Balance sheet;
- Income statement;
- Cash flow statement; and
- Notes to the financial statements, including a disclosure on changes in equity.

An entity is required to appoint a chief accountant who must satisfy the criteria and conditions stipulated by the Accounting Law and guiding regulations. The annual financial statements must be approved by the chief accountant and legal representative and a copy of the financial statements must be submitted to local authorities within 90 days of the end of the financial year. Additionally, listed entities and public interest entities must prepare and submit interim financial statements.

Moving to International Financial Reporting Standards ("IFRS")

One of the areas that the MoF has focused on is promoting IFRS adoption in Viet Nam. On 16 March 2020, the MoF issued Decision No. 345/QD-BTC approving the scheme for application of IFRS in Viet Nam. The IFRS implementation roadmap has three stages:

Stage 1	IFRS preparation (from 2020 to 2021): The MoF makes necessary preparations for the roadmap implementation in order to support businesses adopting IFRS from 2022 onwards. These preparations include: publishing a Vietnamese translation of IFRS standards, training, building guidelines for IFRS implementation, etc.
Stage 2	IFRS pilot implementation (from 2022 to 2025): Those entities that have the need and resources may inform the MoF of voluntary adoption to prepare consolidated financial statements, including parent companies of state-owned groups, listed entities that are parents within a group of entities and large unlisted public entities and other parent companies. FDI companies may adopt IFRS for their separate financial statements on a voluntary basis, provided that they supply all required information and transparent reports to the authorities about their contributions to the State budget.
Stage 3	IFRS implementation (after 2025 onwards): IFRS will be compulsory for consolidated financial statements of all SOEs, listed entities and large unlisted public entities.

Other businesses that operate as parent companies may prepare IFRS consolidated financial statements on a voluntary basis. All remaining businesses may adopt IFRS for their separate financial statements on a voluntary basis, provided that they supply all required information and transparent reports to the authorities about their contributions to the State budget. IFRS is expected to bring benefits to businesses including better information transparency and comparability in financial reporting which would then translate into easily providing useful financial information to relevant stakeholders and attracting foreign capital flows.

Whilst there is no official announcement by the MoF, it is expected that there is a delay in implementing the IFRS roadmap under Decision No. 345/QD-BTC.

Expected amendments to the Accounting Law and corporate accounting system

The Ministry of Finance is currently collecting comments on amending the Viet Nam Accounting Law to accommodate the digital transformation process, especially additional regulations to suit the electronic environment.

Also, the Ministry of Finance is planning to issue a new Circular to supplement the current corporate accounting system Circular 200/2014/TT-BTC ("Cir 200"). The draft circular amending and supplementing various articles of Cir 200 to narrow the gap with the International Financial Reporting Standards and to adapt to new types of transactions. The changes are expected to support economic development, especially attracting foreign investment in the Viet Nam market.

In addition, the accounting system of specific businesses such as insurance, banking, securities, etc. is also in the process of being revised. This adjustment also aims to accommodate the new economy with the adoption of international accounting principles.

Audit requirements

The MoF issued 47 Vietnamese Standards on Auditing ("VSA") based on International Standards on Auditing ("ISA") and which are fairly comparable to ISA at the date of issuance. The MoF is in the process to draft and issue new VSA or amend existing VSA to be comparable to the prevailing ISA standards. In addition, Viet Nam self-developed a VSA No. 1000 on the audit of Investment Completion Audit.

The annual financial statements of the following companies must be audited by an independent auditing company operating in Viet Nam:

- Foreign-invested entities;
- Credit institutions; financial organisations, insurance companies, reinsurance companies, insurance brokerage companies, branches of foreign non-life insurance companies;
- Public interest entities, issuers and securities trading organisations; companies which are 20% or more owned by listed entities, issuers and securities trading organisations; and
- State-owned companies; companies implementing important national projects, group-A projects using state funds.

The deadline for submitting audited annual financial statements can vary from type of business to business, but generally be completed within 90 days of the end of the financial year and reviewed interim financial statements must be completed within 45 days of the end of the first six months of the financial year. These financial statements should be filed with the applicable licensing body, the MoF, local tax authorities, Department of Statistics, and other relevant authorities.

Audit contracts should be signed with independent auditing companies no later than 30 days before the end of the company's financial year.

In accordance with the general auditor rotation requirements, signing auditors are required to be rotated off after three consecutive years. Apart from this requirement for the signing auditors, practising auditors for public interest entities are required to be rotated after four consecutive years. Audit firms for credit institutions are required to be rotated after five consecutive years.

Internal audit

Decree No. 05/2019/ND-CP provides a legal framework for the establishment and implementation of an internal audit function. The objective of the decree is to help the enterprises in Viet Nam adopt leading practices about internal audit approach and methodology, reinforce the transparency, integrity, efficiency and effectiveness in corporate governance, internal control and risk management, which are the foundation for the enterprises to enhance their value and improve performance.

To support the enterprises on further understanding of the Decree, PwC cooperated with HOSE in developing the Frequently Asked Questions about developing and maintaining an effective internal audit function in Viet Nam and released it in March 2020.

On 25 January 2021, the MoF also issued Circular No. 8/2021/TT-BTC on Vietnamese internal audit standards and principles of professional ethics for internal audit, which became effective from 1 April 2021. This circular provides more detailed guidance on the operation and basis for evaluating the performance of internal audit as well as the necessary professional ethics.

Appendix I - Double Taxation Agreements

Viet Nam has signed the Multilateral Convention to Implement DTA Related Measures to Prevent Base Erosion and Profit Shifting. As a result, Viet Nam's DTAs may be subject to some amendments.

A summary of withholding tax rates is presented below:

No	Recipient	Interest (%)	Royalties (%)	Notes
1	Algeria	15	15	1, 2
2	Australia	10	10	-
3	Austria	10	7.5/10	2
4	Azerbaijan	10	10	2
5	Bangladesh	15	15	2
6	Belarus	10	15	2
7	Belgium	10	5/10/15	2
8	Brunei Darussalam	10	10	2
9	Bulgaria	10	15	2
10	Cambodia	10	10	2
11	Canada	10	7.5/10	2
12	China	10	10	2
13	Croatia	10	10	-
14	Cuba	10	10	-
15	Czech Republic	10	10	2
16	Denmark	10	5/15	2
17	Egypt	15	15	1
18	Estonia	10	7.5/10	-
19	Finland	10	10	2
20	France	Nil	10	-
21	Germany	10	7.5/10	2
22	Hong Kong	10	7/10	2
23	Hungary	10	10	-
24	Iceland	10	10	2
25	India	10	10	2
26	Indonesia	15	15	2
27	Iran	10	10	2
28	Ireland	10	5/10/15	2
29	Israel	10	5/7.5/15	2

No	Recipient	Interest (%)	Royalties (%)	Notes
30	Italy	10	7.5/10	2
31	Japan	10	10	2
32	Kazakhstan	10	10	2
33	Korea (South)	10	5/15	2
34	Korea (North)	10	10	2
35	Kuwait	15	20	2
36	Laos	10	10	-
37	Latvia	10	7.5/10	2
38	Luxembourg	10	10	-
39	Macau	10	10	2
40	Macedonia	10	10	1
41	Malaysia	10	10	2
42	Malta	10	5/10/15	2
43	Mongolia	10	10	2
44	Morocco	10	10	2
45	Mozambique	10	10	-
46	Myanmar	10	10	2
47	Netherlands	10	5/10/15	2
48	New Zealand	10	10	-
49	Norway	10	10	2
50	Oman	10	10	2
51	Pakistan	15	15	2
52	Palestine	10	10	-
53	Panama	10	10	-
54	Portugal	10	7.5/10	2
55	Philippines	15	15	2
56	Poland	10	10/15	-
57	Qatar	10	5/10	2
58	Romania	10	15	2
59	Russia	10	15	-
60	San Marino	10/15	10/15	-
61	Saudi Arabia	10	7.5/10	2
62	Serbia	10	10	2
63	Seychelles	10	10	-

No	Recipient	Interest (%)	Royalties (%)	Notes
64	Singapore	10	5/10	2
65	Slovakia	10	5/10/15	2
66	Spain	10	10	2
67	Sri Lanka	10	15	2
68	Sweden	10	5/15	2
69	Switzerland	10	10	-
70	Taiwan	10	15	-
71	Thailand	10/15	15	2
72	Tunisia	10	10	2
73	Turkey	10	10	2
74	UAE	10	10	2
75	Ukraine	10	10	2
76	United Kingdom	10	10	2
77	United States	10	5/10	1, 2
78	Uruguay	10	10	-
79	Uzbekistan	10	15	2
80	Venezuela	10	10	2

Sources: General Department of Taxation

Notes:

1. Not in force yet

2. Interest derived by certain government bodies is exempt from withholding tax.

In most cases, the limits set by the DTA are higher than the present withholding rates under domestic law; therefore, the domestic rates will apply.

Mutual Agreement Procedure (MAP)

The current tax dispute resolution mechanisms in Viet Nam including appeal procedures, court proceedings and MAP under applicable DTAs. Accordingly, the DTAs provide taxpayers with the right to request Viet Nam and the other contracting country to resolve the dispute through MAP.

PwC Services in Viet Nam

PwC in Vietnam established offices in Hanoi and Ho Chi Minh City in 1994. Our team of around 1,500 Vietnamese and expatriate staff have a thorough understanding of the economy in which they work and a broad knowledge of policies and procedures covering investment, legal, tax, accounting and consulting matters throughout Vietnam. PwC Vietnam has built strong relationships with key ministries, financial institutions, state owned companies, private companies, commercial organizations and the ODA community.

We also have an affiliated law firm in Vietnam, licensed by the Ministry of Justice in 2000, with its head office in Ho Chi Minh City and a branch office in Hanoi.

Our services include:

Tax & Consultancy Services

- Consulting and compliance
- Tax health check services
- Tax dispute resolution
- Transfer pricing
- Tax due diligence and structuring
- Payroll outsourcing
- Tax technology solutions
- Bookkeeping services

Customs and International Trade Advisory Services

- Consulting and compliance
- Customs health check services
- Customs dispute resolution
- Customs technology solutions

Legal Services (through our affiliate law firm, PwC Legal (Vietnam) Co., Ltd)

- Market entry
- General corporate & commercial services
- Mergers & Acquisition
- Real estate
- Intellectual property & technology transfer
- Employment & human resources
- Banking & financial services
- Data protection and privacy services

Deals Services

- Transaction Services
- Corporate Finance
- Valuation
- Deals Strategy
- Capital Projects and Infrastructure
- Business Restructuring Services
- Working Capital Management

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- Information Technology
- People & Organization
- Operations and Supply Chain Management
- Finance Function Effectiveness
- Banking
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