

Doing Business in Vietnam

*A reference guide for
investors entering the
Vietnam market for the
first time or growing their
existing business*

2014



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Doing Business in Vietnam 2014

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Foreword

This publication has been written for investors planning to enter or expand their presence in Vietnam.

PwC has a 20 year history in Vietnam. We established offices in Hanoi & Ho Chi Minh City in 1994, offering a full range of services including Assurance, Advisory, Legal and Tax services. PwC Vietnam has long been advising companies and individuals on how to establish businesses in Vietnam. We have more than 650 people with expert knowledge and practical experience ready to advise across all industries.

In recent times, Vietnam has faced its fair share of challenges, not helped by global and rapidly changing economic conditions. However, Vietnam remains a strong growth story. When other markets were foundering during the recent economic downturn, Vietnam posted strong growth. I am confident that Vietnam will continue to deliver tremendous opportunities to investors.

This guide has been developed by our industry professionals and specialists shaped by their real on-the-ground experience in Vietnam. It is meant to provide some insights into the key aspects of undertaking business and investing, from the initial establishment of an entity, implementation of appropriate legal and tax structures to ongoing compliance issues. It is a good starting point for anyone looking to conduct business in Vietnam.

I hope that you find this publication useful in your endeavours to establish a profitable venture in Vietnam. Should you have more specific questions, please do not hesitate to contact the professional advisors at our offices.

Dinh Thi Quynh Van
General Director, PwC Vietnam

Executive Summary

Welcome to our guide to doing business in Vietnam. In this publication, we hope to provide you with an insight into the key aspects of undertaking business and investing in Vietnam and answer many of the questions foreign businesses and entrepreneurs have when making their first venture into the Vietnamese market.

Starting from a low economic base in the early 1990s, Vietnam's move to a more market oriented economy from a centrally planned one brought rapid growth which, like elsewhere, slowed during the global financial crisis.

Whilst Vietnam's macro-economic troubles took some shine off its appeal, broad based growth, low wages and a strong economic outlook continue to make it an attractive place for investment and a favourite solution to rising manufacturing costs elsewhere.

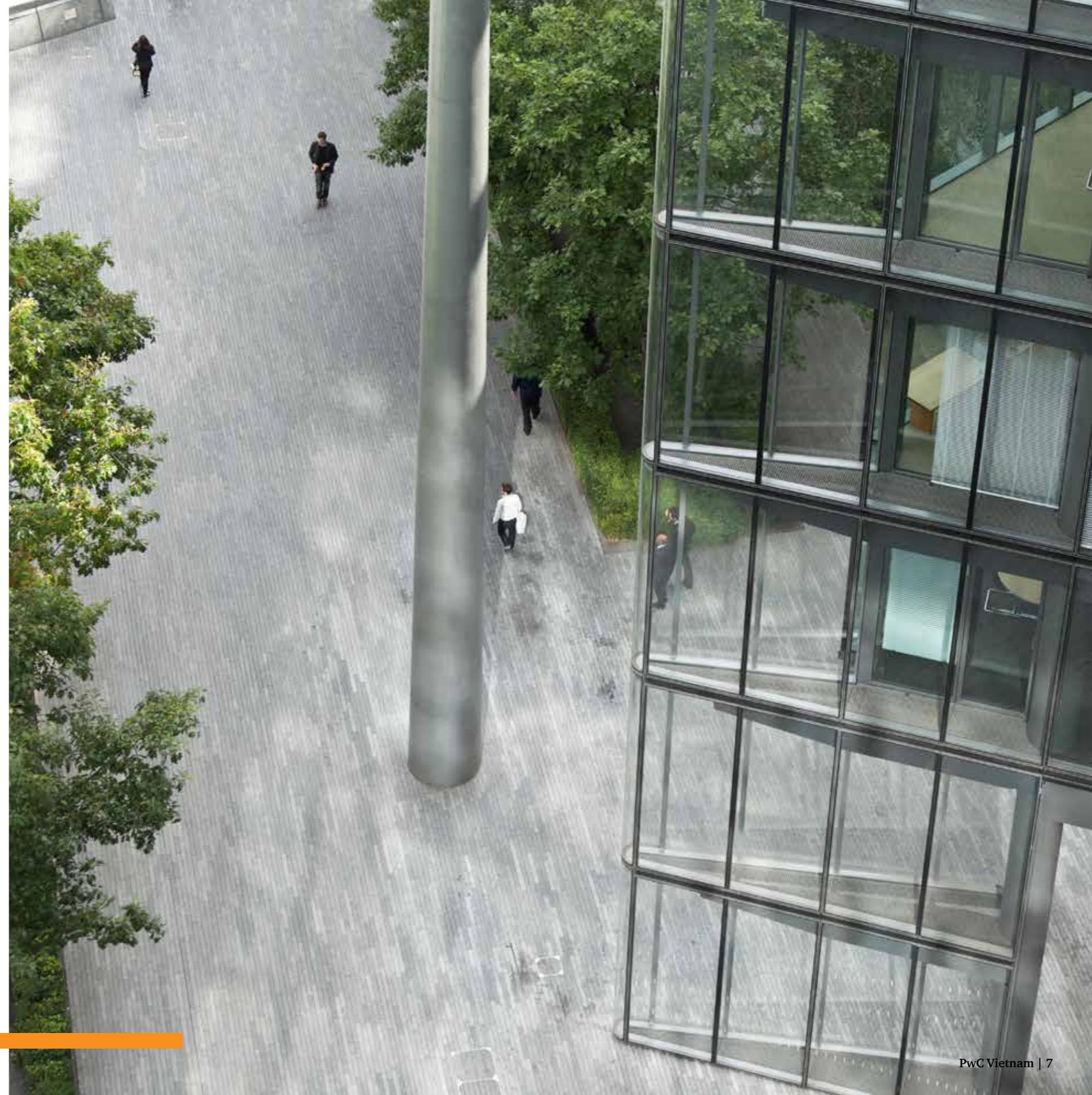
Vietnam's dynamic environment, reflected in a young population, growing wealth, changing consumer attitudes, greater mobility and urbanisation – are pushing the country through a period of great change.

For many, the benefits of locating key parts of the supply chain in Vietnam are compelling but market forces such as a rising middle class and the further opening up the economy also bring access to exciting new sectors and opportunities outside of manufacturing.

Regardless of the reasons for entry, identifying the right path in to the market can be challenging. Success in other markets cannot necessarily be easily replicated in Vietnam.

The message for those entering the market or expanding their presence in Vietnam is clear: make sure that you are fully prepared and committed before investing. The key to success is to have fully assessed your markets and risks and ensure that you take time to invest in knowing your customers and partners, your government touch points and stakeholders.

This document contains references to some common issues that investors should be aware of when operating in Vietnam, but each case is different and specific advice should always be sought.





An Overview

This guide, Doing Business in Vietnam, provides a high level overview of the practical aspects of doing business in Vietnam, including the common types of business entities used by foreign investors to enter the Vietnam market, and the taxation and regulatory environment.

The guide also covers some practical issues faced by investors when entering Vietnam.

Whilst the guide does focus on corporate entities, an overview of the taxation obligations of individuals and its administration is also presented.

Geography

Vietnam is located in the centre of Southeast Asia and is bordered by China to the north, Laos and Cambodia to the west.

The total area of Vietnam is over 331,600 square kilometres and consists of mountains and tropical forests as well as more densely populated plains in both the north and south of the country.

Hanoi in the north is the capital of the country and Ho Chi Minh City in the south is the largest commercial city. Da Nang, in central Vietnam, is the third largest city and an important seaport.

Economic Environment

Over the last 20 years, GDP growth has averaged over 7%. However the global recession hurt Vietnam's export-oriented economy, with GDP in 2012 slowing to 5%; the slowest rate of growth since 1999. GDP growth was 5.4% in 2013 and is forecast to hit a similar level in 2014.

As well as enjoying strong export growth, which grew at more than 15% year-on-year in 2013, Vietnam is becoming an increasingly large importer of capital goods necessary to meet its large infrastructure needs, and consumer goods to satisfy its rapidly expanding consumer market.

Ranked as the 13th most populous country in the world, with a population of over 90 million people with a median age of 29, Vietnam represents a huge pool of potential customers for many investors.

Key Sectors and Trading Partners

Vietnam continues to diversify away from agriculture, which has shrunk to about 22% of GDP. The industrial sector, led by manufacturing, now accounts for over 40% of GDP followed by services at 38%.

The growth in exports has been driven by the fast growing telecoms, plastics, clothing and apparel sectors with the US (17%), China (11%), Japan (11%), EU (18%) and ASEAN (15%) the main export destinations.

Whilst earnings from commodity exports have declined, manufacturing exports of garments, footwear and other labour intensive industries achieved rapid growth in 2012 and 2013, as did exports of hi-tech and high value products such as mobile phones, computers and other electronic products.

In 2013 Vietnam's basket of exports included mobile phones and parts (17%), garments (14%), crude oil (6%) and rice (2%).

Foreign Investment

With improvements in the stability of the exchange rate, reductions in the level of inflation (which fell from a year on year peak of 23% in 2011 to 6% in 2013), and an increase in foreign exchange reserves, the macroeconomic environment has stabilised in recent years

Vietnam received \$11.5bn in foreign direct investment in 2013, a 10% increase on the previous year. At an average rate of 5.2%, foreign direct investment as a percentage of GDP is amongst the highest in the region.

Vietnam remains one of the most attractive locations for foreign investors in South East Asia on account of its low wages, favourable demographics, location and political stability.

Much of the foreign direct investment into Vietnam comes from Taiwan, Japan, Singapore and Korea.

With negotiations on the Trans Pacific Partnership ("TPP") currently on-going, it is widely considered that Vietnam has much to gain from this agreement, due to its potential for a greater share of the global apparel and footwear market, particularly in the US and Japan. The TPP would allow Vietnam to export apparel to the US at a 0% tariff, making Vietnam's exports even more competitive.

In 2013, Vietnam exported almost \$8.2bn worth of apparel to the US which accounted for 10% of US apparel imports. It also exported over \$2.9bn of footwear.

Legal and Regulatory

Vietnam is in the process of transitioning to a full market economy.

Vietnam's legal powers are centralised in one supreme body, and then delegated to lower bodies. The National Assembly is the only body with the power to amend the Constitution and pass laws.

The Vietnamese government has issued various policies to encourage enterprise and foreign investment in recent years. However, certain industries such as financial services, telecommunication, mining and utilities, continue to be subject to restrictions on foreign ownership.

Vietnam joined the World Trade Organisation ('WTO') in 2007. Under its accession commitments, Vietnam opened up various business sectors to foreign investment, in some cases under a phased approach. These commitments are generally referred to when assessing whether foreign investment in a particular sector will be allowed.

There is a hierarchy of regulations in Vietnam, with laws being passed by the National Assembly, and their implementing decrees and circulars issued by the government and its ministries, respectively. A plethora of other legal instruments/ guidelines are also issued by various other authorities.

Workforce and Cost of Living

The number of people of working age in employment in Vietnam totaled 53 million in 2013 with an unemployment rate of 2.3%.

Wages and salaries in Vietnam vary widely across occupations and geographic locations. In 2013 the

average annual income per person was approximately \$2,000.

In comparison with other countries in Asia, the cost of living in Vietnam remains relatively low.

Business Etiquette and Culture

Many Vietnamese are more comfortable using their native language rather than English. However many English speakers can be found in Vietnam, especially in the larger cities.

Presenting business cards is an important ritual in the Vietnamese business world. Cards are exchanged at the beginning of a meeting using both hands. Translating written materials into Vietnamese shows high regard for Vietnamese colleagues.

Face to face business meetings are important in Vietnam and an appropriate level of respect must be shown according to rank and seniority.



The Future

The Socialist Republic of Vietnam is a single-party state. As the only party in the political arena, the role and influence of the Communist Party is unique.

As a member of the WTO, Vietnam must continue to improve its business and investment environment and bolster its legal system to meet WTO requirements. Vietnam has made significant efforts to ensure that foreign investors are not disadvantaged compared with their local counterparts, including an overhaul of the legal framework governing investments and protection of intellectual property. Furthermore, the government has taken measures to simplify administrative procedures in areas such as import and export, company establishment and making tax payments.

Despite these measures, there remain various regulatory issues and obstacles that must be considered by foreign investors coming into Vietnam. In a recent report by the World Bank, Vietnam was ranked 99th in the world for the ease of doing business. However, foreign investment in Vietnam continues to grow, and the Government shows its commitment to market-oriented reforms through its ongoing efforts to attract foreign direct investment.



Setting up a Business in Vietnam

Forms of Business

A foreign entity may establish its presence in Vietnam as a limited-liability company with one or more members, a joint-stock company, a partnership, a branch, a business cooperation contract or a representative office.

Foreign investors may also buy an interest in an existing domestic enterprise, subject in some cases to ownership limitations which vary depending on the relevant industry sector.

The choice of investment vehicle will depend on factors such as the number of investors, industry, size of the project and whether there is any intention to list the entity.

1. Limited-liability Company

A limited-liability company is a legal entity established by its members through capital contributions to the company. The capital contribution of each member is treated as equity (charter capital). The members of a limited-liability company are liable for the financial obligations of the limited-liability company to the extent of their capital contributions.

The management structure of a limited-liability company consists of the members' council, the chairman of the members' council, the general director and a controller (or board of supervisors where the limited-liability company has more than 10 members).

A limited-liability company established by foreign investors may take the form of either:

- a 100% foreign-owned enterprise (where all members are foreign investors); or
- a foreign-invested joint-venture enterprise between foreign investors

and at least one domestic investor.

A limited-liability company may not issue securities to raise capital.

2. Joint-stock Company

A joint-stock company is a limited liability legal entity established by its founding shareholders based on their subscription for shares in the company.

Under Vietnamese law, this is the only type of company that can issue shares. The charter capital of a joint-stock company is divided into shares and each founding shareholder holds a number of shares that corresponds to the amount of capital the shareholder has contributed to the company.

A joint-stock company is required to have at least three shareholders. There is no limit on the maximum number of shareholders in such companies.

The management of a joint-stock company comprises the general meeting of shareholders, the board of management, the chairman of the board of management, the general director and a board of supervisors (where the joint stock company has more than 10 individual shareholders, or if a corporate shareholder holds more than 50% of the shares of the joint-stock company).

A joint-stock company may either be 100% foreign-owned or may take the form of a joint venture between both foreign and domestic investors.

3. Partnership

A partnership may be established between an individual or a legal entity and the general partner, who must be an individual. The general partner has unlimited liability for the operations of the partnership.

4. Branches

This is not a common form of foreign direct investment and is only permitted in a few sectors. Branches of foreign companies in Vietnam are different from representative offices in that a branch is permitted to conduct commercial activities in Vietnam.

5. Representative Offices

Foreign companies with business relations or investment projects in Vietnam may apply to open representative offices in Vietnam.

A representative office is not an independent legal entity and may not conduct direct commercial or revenue-generating activities (i.e., the execution of contracts, receipt of funds, sale or purchase of goods, or provision of services).

However, a representative office is permitted to:

- Act as a liaison office to observe the business environment;
- Search for trade and/or investment opportunities and partners;
- Supervise and assist the implementation of contracts entered into by its head office with Vietnamese partners;
- Act on behalf of its head office to supervise and direct the implementation of projects in Vietnam.

Thus representative offices can provide a wide range of ancillary support to their head offices overseas. This is a very common form of presence in Vietnam for foreign companies, particularly at the first initial stages.



6. Business Cooperation Contract ('BCC')

A BCC is a cooperation agreement between foreign investors and at least one Vietnamese partner in order to carry out specific business activities.

This form of investment does not constitute the creation of a new legal entity. The investors in a BCC generally share the revenues and/or products arising from a BCC and have unlimited liability for the debts of the BCC.

7. Build-Operate-Transfer ('BOT'), Build-Transfer ('BT') and Build-Transfer-Operate ('BTO') Contracts

Foreign investors may sign BOT, BT and BTO contracts with a State body to implement infrastructure construction

projects in Vietnam. Typically, the contracts are for projects in the fields of transportation, electricity production, water supply, drainage and waste treatment.

The rights and obligations of the foreign investor will be regulated by the signed BOT/ BT/BTO contract and the applicable regulations governing such contracts.

Both public- and private-sector investors are encouraged to participate in BOT, BTO and BT in the following sectors:

- (i) construction, operation and management of brand-new infrastructure facilities; and
- (ii) renovation, expansion, modernisation, operation and management of existing infrastructure facilities such as:
 - roads, bridges, tunnels, and ferry

- landings;
- railway bridges and railway tunnels;
- airports, seaports and river ports;
- clean water supply systems; sewage systems;
- wastewater, waste collection and handling systems;
- power plants and power transmission lines;
- infrastructure for health service, education, training, career training, culture, sport and offices of State agencies; and
- other projects as may be determined by the Prime Minister.

Setting up a Business

In order to set up a limited liability company, a joint stock company, a partnership or enter into a business cooperation contract with one or more Vietnamese partners, the foreign investors must obtain an

investment certificate from the licensing authorities, which may be either (i) the provincial people's committee (for projects located outside of industrial zones, export processing zones, high-tech zones and economic zones), or (ii) the provincial industrial zone management authority or economic zone management authority (for projects located in industrial zones, export processing zones, high-tech zones and economic zones). Under the regulations, the licensing process should take from 15 working days (for the investment certificate registration procedure) to 45 working days (for the investment certificate appraisal procedure). However in practice it usually takes longer.

The procedures for obtaining a branch licence depend on the scope of operations of the branch.

Investment in "conditional" sector

activities is subject to the more cumbersome appraisal (as opposed to registration) procedures. These require, inter alia, the licence application to be reviewed also at central government ministry level in Hanoi.

Approval for the establishment of a representative office of a foreign company is granted in the form of a licence issued by the provincial people's committee. Procedures for setting up a representative office are quite simple in comparison with those for a company and it normally takes 2 - 4 weeks to obtain a representative office licence from the date of submission of a complete application dossier.

For BOT/BTO/BT projects, foreign investors must sign BOT, BT and BTO contracts with an authorised State body, and then establish a project company in the form of a limited liability company or a joint stock company.

Liquidation and Bankruptcy

A company can only be liquidated if it is solvent and all creditors can be paid. The process generally takes 6 - 12 months and requires a final tax audit.

For insolvent companies, a new Bankruptcy Law comes into effect 1 January 2015. The new law sets out, inter alia, which parties can instigate bankruptcy proceeding, appointment of a liquidator, organisation of creditors meetings, and priority of payment of creditors.



Taxation

General Overview

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

- Corporate income tax;
- Various withholding taxes;
- Capital assignment profits tax;
- Value added tax;
- Import duties;
- Personal income tax of Vietnamese and expatriate employees;
- 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.

All these taxes are imposed at the national level. There are no local, state or provincial taxes.

Corporate Income Tax ('CIT')

Tax Rates

Enterprises (generally companies) are subject to the tax rates imposed under the CIT Law. The standard CIT rate was reduced from 25% to 22% from 2014 and will be further reduced to 20% from 2016. A 20% rate applies from 1 July 2013 for enterprises with revenue of no more than VND20 billion in the preceding year. Companies operating in the oil and gas industry are subject to CIT rates ranging from 32% to 50% depending on the location and specific

project conditions. Companies engaging in prospecting, exploration and exploitation of mineral resources (e.g. silver, gold, gemstones) are subject to CIT rates of 40% or 50%, depending on the project's location.

Tax Incentives

Tax incentives are granted to new investment projects based on regulated encouraged sectors, encouraged locations and the size of the project. From 1 January 2014, business expansion projects which meet certain conditions are also entitled to CIT incentives. New investment projects and business expansion projects do not include projects established as a result of certain acquisitions or reorganisations.

- The sectors which are encouraged by the Vietnamese Government include education, health care, sport/culture, high technology, environmental protection, scientific research, infrastructural development, software production and renewable energy.

- Locations which are encouraged include qualifying economic and high-tech zones, certain industrial zones and difficult socio-economic areas.

- Large manufacturing projects with investment capital VND6,000 billion or more, spent within 3 years of being licensed (excluding those related to the manufacture of products subject to special sales tax or those exploiting mineral resources) can also qualify for CIT incentives if the projects meet either of the following criteria:

i. minimum revenue of VND10,000 billion/annum for at least 3 years after the first year of operations; or

ii. headcount of more than 3,000 for at least 3 years after the first year of operations.

The two preferential rates of 10% and 20% are available for 15 years and 10 years respectively, starting from the commencement of operating activities. From 1 January 2016, enterprises entitled to the preferential CIT rate of 20% will enjoy the rate of 17% instead. When the preferential rate expires, the CIT rate reverts to the standard rate. Certain socialised sectors (e.g. education, health) enjoy the 10% rate for the life of the project.

Taxpayers may be eligible for tax holidays and reductions. The holidays take the form of a complete exemption from CIT for a certain period beginning immediately after the enterprise first makes profits, followed by a period where tax is charged at 50% of the applicable rate. However, where the enterprise has not derived profits within 3 years of the commencement of operations, 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.

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

Tax incentives which are available for investment encouraged sectors do not apply to other income, which is broadly defined.

Calculation of Taxable Profits

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 properly supported by suitable documentation including bank transfer vouchers where the invoice value is VND20 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 or collective labour agreement;
- Reserves for research and development not in accordance with the prevailing regulations;
- Provisions for severance allowance (except for companies not subject to mandatory unemployment insurance contributions) and payments of severance allowance in excess of the prescribed amount per the Labour Code;
- Overhead expenses allocated to a permanent establishment (“PE”) in Vietnam 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 charter capital not yet contributed;

- Interest on loans from non-economic and non-credit organisations exceeding 1.5 times the interest rate set by the State Bank of Vietnam;
- Provisions for stock devaluation, bad debts, financial investment losses, product warranties or construction work which are not in accordance with the prevailing regulations;
- Advertising and promotion (A&P) expenses (excluding certain items such as payment discounts, market research, trade fairs, commissions for insurance and multi-level marketing) exceeding 15% of total other deductible expenses;
- Unrealised foreign exchange losses due to the year-end revaluation of foreign currency items other than account payables;
- Donations except certain donations for education, health care, natural disaster or building charitable homes for the poor;
- Administrative penalties, fines, late payment interest;
- Contributions to voluntary pension funds and the purchase of voluntary pension and life insurance for employees exceeding VND 1 million per month per person;
- Certain expenses directly related to the issuance, purchase or sale of shares;
- Creditable input value added tax, corporate income tax and personal income tax.

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

Business entities in Vietnam are allowed to set up a tax deductible Research and Development 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. From 2014, 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

Provisional quarterly CIT returns must be filed and taxes must be paid by the 30th day of the first month of the subsequent quarter.

Final CIT returns are filed annually. The annual CIT return must be filed and submitted not later than 90 days from the fiscal year end. The outstanding tax payable must be paid at the same time.

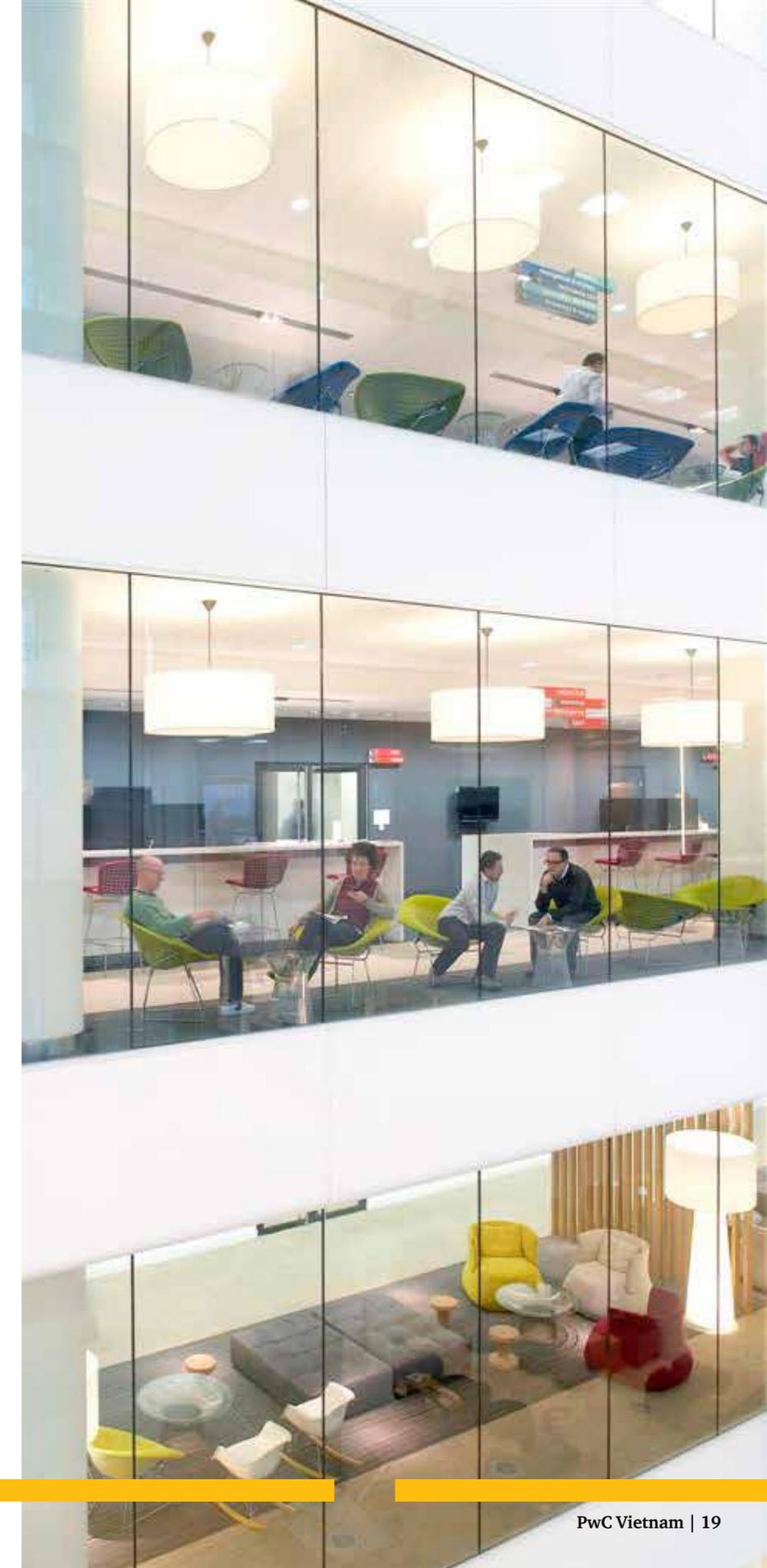
Where a taxpayer has a dependent accounting unit (e.g. branch) in a different province, a single CIT return is required. However, manufacturing companies are required to allocate tax payments to the various provincial tax authorities in the locations where they have dependent manufacturing establishments. The basis for allocation is the proportion of expenditure incurred by each manufacturing establishment over the total expenditure of the company.

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 at the end of the financial year or upon termination of the investment in Vietnam. 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

Vietnam's transfer pricing regulations outline various situations where transactions will be considered as being between related parties and the mechanisms for determining the market "arm's length" transaction value.

Under the wide ranging definition of related parties, the control threshold is lower than in many other countries (20%) and the definition also extends to certain significant supplier, customer and funding relationships between otherwise unrelated parties. Vietnam's transfer pricing rules also extend to domestic related party transactions.

The acceptable methodologies for determining arm's length pricing are analogous to the principles espoused by the Organisation for Economic Cooperation and Development (OECD), i.e. comparable uncontrolled price, resale price, cost plus, profit split and comparable profits methods.

Compliance requirements include an annual declaration of related party transactions and transfer pricing methodologies used, which is required to be filed together with the annual CIT return.

Companies which have related party transactions must also prepare and maintain contemporaneous transfer pricing documentation, which is required to be submitted to the tax authorities within 30 working days of a request, in Vietnamese.

An advance pricing agreement mechanism has recently been introduced which will allow taxpayers and the tax authorities to agree in advance the pricing method.

Foreign Contractor Withholding Tax ('FCT')

FCT applies to certain payments to foreign parties including interest, royalties, service fees, leases, insurance, transportation, transfers of securities and goods supplied within Vietnam or associated with services rendered in Vietnam. It normally comprises a combination of CIT and VAT at varying rates but can also include PIT for payments to foreign individuals.

Dividends

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

Interest

Withholding tax of 5% 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 are subject to 5% withholding tax. Sales of bonds and certificates of deposits are subject to deemed tax of 0.1% of the gross sales proceeds.

Royalties and Licence Fees

FCT at 10% applies to payments to a foreign entity for the right to use or transfer intellectual property or for transfers of technology.

Payments to Foreign Contractors

A withholding tax on payments to foreign contractors applies where a Vietnamese party (including foreign owned companies) contracts with a foreign entity that does not have a licensed presence in Vietnam.

This FCT generally applies to payments derived from Vietnam, except for the pure supply of goods (i.e. where title passes at or before the border gate of Vietnam and there are no associated services performed in Vietnam), services performed and consumed outside Vietnam and various other services performed wholly outside Vietnam (e.g. certain repairs, training, advertising, promotion, etc.)

Foreign contractors can choose between 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 Vietnam;
- The duration of the project in Vietnam is more than 182 days; and
- They adopt the full Vietnam Accounting System ("VAS"), 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 many projects in Vietnam 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 22% on its net profits.

Method Two – Direct Method

Foreign contractors adopting the direct (or withholding) method do not register for VAT purposes nor file CIT or VAT returns. Instead CIT and VAT will be 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 Vietnam or be tax resident in Vietnam;
- Operate in Vietnam 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.

The FCT rates including VAT and CIT rates are summarised in **Table 1** (page 23).

Double Tax Agreements ('DTAs')

The CIT withholding taxes 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 a PE in Vietnam.

Vietnam has signed up to more than 65 DTAs and there are a number of others at various stages of negotiation. Notably absent is a DTA with the United States of America.

Additional guidance has been introduced on the application of DTAs and became effective in 2014. The

most notable and interesting changes relate to beneficial ownership and general anti-avoidance provisions. DTA entitlements will be denied where the main purpose of the arrangements is to obtain beneficial treatment under the terms of the 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:

- 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 with a low tax rate;
- The recipient is an intermediary or agent.

Capital Assignment Profits Tax ('CAPT')

Gains derived by an entity on transfers of interests (as opposed to shares) in a Vietnam limited liability company or other enterprises are subject to 22% CIT. This is generally referred to as capital assignment profits tax (CAPT) 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 in which the interest is transferred is responsible for the CAPT administration. The return and payment is required within 10 days from the date of official approval of the sale.

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 disposal proceeds. Gains derived by a resident entity or gains on the transfer of shares by a non-resident entity (which are not treated as securities) are taxed at 22%.

Table 1: FCT Rates, including VAT and CIT Rates

Industry	Deemed VAT Rate (%)	Deemed CIT Rate (%)
Supply of goods in Vietnam or associated with services rendered in Vietnam (including in-country import-export and imports under DDP, DAT or DAP delivery terms)	1 (*)	1
Services	5	5
Services together with supply of machinery and equipment (**)	3	2
Restaurant, hotel and casino management services	5	10
Construction, installation without supply of materials or machinery, equipment	5	2
Construction, installation with supply of materials or machinery, equipment	3	2
Leasing of machinery and equipment	5	5
Leasing of aircraft, vessels (including components)	Exempt	2
Transportation (***)	3***	2
Interest	Exempt	5
Royalties	Exempt	10
Insurance	Exempt/5****	5
Re-insurance, commission for re-insurance	Exempt	0.1
Transfer of securities	Exempt	0.1
Financial derivatives	Exempt	2
Manufacturing, other business activities	3	2

* VAT will not be payable where goods are exempt from VAT or where import VAT is paid

** Where the contract does not separate the value of goods and services

*** International transportation is subject to 0% VAT

**** Certain types of insurance are exempt from VAT (see 'Exempt Goods and Services' in VAT section).

Value Added Tax ('VAT')

Scope of Application

VAT applies to goods and services used for production, trading and consumption in Vietnam (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 duty paid value of imported goods. The importer must pay VAT to 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 declaration form.

Goods or Services not Subject to VAT

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 marketing/promotional services;
- Transfers of emission rights and other financial revenues;
- Certain services rendered by a foreign organisation which does not have a PE in Vietnam where the services are rendered outside of Vietnam,

including repairs to means of transport, machinery or equipment, advertising, marketing, promotion of investment and trade to overseas; brokerage activities for the sale of goods and services overseas, training, certain international telecommunication services;

- Sales of assets by non-business organisations or individuals who are not registered for VAT;
- Transfer of investment projects;
- Sale of agricultural products that have not been processed into other products or which have just been through preliminary processing;
- Capital contributions in kind;
- Certain asset transfers between a parent company and its subsidiaries or between subsidiaries of the same parent company;
- 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.

Exempt Goods and Services

There are stipulated categories of VAT exemption, including inter alia:

- Certain agricultural products;

- Imported or leased drilling rigs, aeroplanes and ships of a type which cannot be produced in Vietnam;
- Transfer of land use rights (subject to limitations);
- Financial derivatives and credit services (including credit card issuance, finance leasing and factoring); sale of VAT able mortgaged assets 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;
- 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 unprocessed mineral products such as crude oil, rock, sand, rare soil, rare stones, etc.;
- Imports of machinery, equipment and materials which cannot be produced in Vietnam for direct use in science research and technology development activities;
- Equipment, machinery, spare parts, specialised means of transport and necessary materials which cannot be produced in Vietnam for prospecting, exploration and development of oil and gas fields;
- 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).

Tax Rates

There are three VAT rates as follows:

0%: This rate applies to exported goods/services including goods/services sold to overseas/non-tariff areas and consumed outside Vietnam/in the non-tariff areas, 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 enterprises, 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; fertiliser production; 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.

Exported Goods and Services

Services rendered and goods sold to foreign companies, including companies in non-tariff areas, are subject to 0% VAT if they are consumed outside Vietnam 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 Vietnam to foreign customers; and various services provided to non-tariff areas (including leasing of houses, transport services for employees to and from their work place, certain catering services and services in relation to trading or distribution of goods in Vietnam).

VAT Calculation Methods

There are two VAT calculation methods, the tax 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;
- 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 price plus import duty plus special sales tax (if applicable) plus environment protection tax (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 customs declaration. VAT invoices can be declared and claimed any time before the company receives notice of a tax audit by the tax authorities. Input VAT credits on payments of VND20 million or more can only be claimed where evidence of non-cash payment 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 not subject to VAT, 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;
- 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 of 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 and services used internally by a

business are liable to VAT based on their normal sales price, with an input tax credit available where these are used in the making of VATable supplies.

Administration

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

Taxpayers must file VAT returns monthly, by the 20th day of the subsequent month.

Refunds

Where the taxpayer's input VAT for a period exceeds its output VAT, it will have to carry the excess forward for a period of twelve months. It can then claim a refund from the tax authorities. In certain cases (e.g. exporters where excess input VAT credits exceed VND300 million), a refund may be granted on a monthly/ quarterly basis. Newly established entities in the pre-operation investment phase may claim VAT refunds on a yearly basis or where the accumulated VAT credits exceed VND300 million.

Newly established entities and certain investment projects which are in the pre-operation stage may be entitled to refunds for VAT paid on imported fixed assets based on shorter timelines than normal, subject to certain conditions.

Tax Invoices

Entities in Vietnam can use pre-printed invoices, self-printed invoices or electronic invoices. The tax invoice template must contain stipulated items and be registered with the local tax

authorities.

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.

Taxable Price

There are various anti-avoidance rules which specify minimum prices for SST purposes. For example where a manufacturer produces goods subject to SST and sells such goods through an agent, the minimum price for calculation of SST is 90% of the average selling price of the agent.

Tax Credits

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

Tax Rates

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

1. Commodities - 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
2. Service activities - discotheques, massage, karaoke, casinos, gambling, lotteries, golf clubs and entertainment with betting.

See **Table 2** for the SST rates (page 27)

Table 2: SST Rates

Products / Services	Tax Rate (%)
Cigar/Cigarettes	65
Spirit/Wine	25 - 50
Beer	50
Automobiles having less than 24 seats	10 - 60
Motorcycles of cylinder capacity above 125cm ³	20
Airplanes	30
Boats	30
Petrol	10
Air-conditioner (not more than 90,000 BTU)	10
Playing cards	40
Votive papers	70
Discotheques	40
Massage, karaoke	30
Casinos, jackpot games	30
Entertainment with betting	30
Golf	20
Lotteries	15

Table 3: Environment Protection Tax Rates

No.	Goods	Unit	Tax Rate (VND)
1	Petrol, diesel, grease, etc.	litre/kg	300-1,000
2	Coal	ton	10,000-20,000
3	HCFCs	kg	4,000
4	Plastic bags (*)	kg	40,000
5	Restricted use chemicals	kg	500-1,000

* Excludes plastic bags used for packaging or which are 'environmentally friendly'

Natural Resources Tax

Natural resources tax is payable by industries exploiting Vietnam's natural resources such as petroleum, minerals, forest products, seafood and natural water.

The tax rates vary depending on the natural resource being exploited 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.

Petroleum, natural gas and coal gas are taxed at progressive tax rates depending on the daily average production output.

Property Taxes

The rental of land use rights by foreign investors (if not contributed as capital) is in effect a form of property tax. It is usually known as land rental and 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%.

Environment Protection Tax

Environment protection tax is an indirect tax which is applicable to the production and importation of certain goods deemed detrimental to the environment, the most significant of which are petroleum and coal. The tax rates are listed in **Table 3**.

Import and Export Duties

Rates

Import and export duty rates are subject to frequent changes and it is always prudent to check the latest position.

Import duty rates are classified into 3 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 Vietnam. The MFN rates are in accordance with Vietnam's WTO commitments and are applicable to goods imported from other member countries of the WTO.

Special preferential rates are applicable to imported goods from countries that have a special preferential trade agreement with Vietnam. Vietnam has such free trade agreements with various countries including the ASEAN member states, Japan, China, India, Korea, Chile, Australia and New Zealand.

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

Calculations

In principle Vietnam 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 calculation of the customs value will be used.

SST applies to some products in addition to import duties. VAT will also be applied on all imported goods and services (unless exempt under the VAT regulations).

Exemptions

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

There are 20 categories of import duty exemption, including:

- Machinery & equipment, specialised means of transportation and construction materials (which cannot be produced in Vietnam) comprising the fixed assets of certain projects;
 - Raw materials, spare parts, accessories, other supplies, samples, machinery and equipment imported for the processing of goods for export and finished products imported for use in the processed goods;
- Currently, companies manufacturing goods for export do not pay import duties on raw materials where the products are destined for export. However, where the enterprise does not, or is not expected to, export the finished product within 275 days the Customs Department will charge temporary import duty on the raw materials. Penalties for late payment can apply. Where the enterprise then exports the finished product, a refund will be provided in proportion to the raw materials contained in the exports.
- Machinery, equipment, specialised means of transportation, materials (which cannot be produced in Vietnam),

health and office equipment imported for use in oil and gas activities.

Refunds

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

- Goods for which import duties have been paid but which are not actually physically imported;
- Imported raw materials that are not used in production and which must be re-exported;
- Imported raw materials that were imported for the production of products for the domestic market but are later used for the processing of goods for export under processing contracts with foreign parties.

Export Duties

Export duties are charged only on a few items, basically natural resources such as sand, chalk, marble, granite, ore, crude oil, forest products, and scrap metal. Rates range from 0% to 40%. The tax base for 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, excluding freight and insurance costs.

Personal Income Tax ('PIT')

Tax Residency

Residents are those individuals meeting one of the following criteria:

- Residing in Vietnam for 183 days or more in either the calendar year or the period of 12 consecutive months from the date of first arrival;

- Having a permanent residence in Vietnam (including a registered residence which is recorded on the permanent/temporary residence card in case of foreigners);
- Having a leased house in Vietnam with a 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 and business income is taxed on a progressive tax rates 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. Non-residents are subject to PIT at a flat tax rate of 20% on the income received as a result of working in Vietnam in the tax year, 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 Vietnam 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 benefits-in-kind. However, the following items are not subject to tax:

- Payments for business trips (subject to a cap);

- Payments for telephone charges (subject to a cap);
- Payments for uniform/stationery costs (subject to a cap);
- 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 to Vietnam for expatriates and from Vietnam for Vietnamese working overseas;
- Once per year home leave round trip airfare for expatriates and Vietnamese working overseas;
- School fees up to high school in Vietnam/overseas for children of expatriates/Vietnamese working overseas;
- Training;
- Mid-shift meals (subject to a cap if the meals are paid in cash);
- Certain benefits in kind provided on a collective basis (e.g. membership fee, entertainment, healthcare, transportation to and from work) and;
- Airfares for employees working on a rotation basis in a number of industries such as petroleum or mining.

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);
- Investment income (e.g. interest, dividends);
- Gains on sale of shares;
- Gains on sale of real estate;
- Inheritances 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.

Foreign Tax Credits

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

Tax Deductions

Tax deductions include:

1. Contributions to mandatory social, health and unemployment insurance schemes;
2. Contributions to local voluntary pension schemes (subject to a cap);
3. Contributions to certain approved charities;
4. Tax allowances:
 - Personal allowance: VND9 million/month;
 - Dependent allowance: VND3.6 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.

See **Table 4, 5, 6** for the PIT rates (page 30)

Table 4: PIT Rates for Residents – Employment and Business 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

Table 5: PIT Rates for Residents – Other Income

Type of Taxable Income	Tax Rate (%)
Interest/ dividends	5
Sale of shares: Net gain; or Sales proceeds	20 0.1
Capital assignment Net gain	20
Sale of real estate: Net gain; or Sales proceeds	25 2
Income from copyright	5
Income from franchising/royalties	5
Income from winning prizes	10
Income from inheritances/gifts	10

Table 6: PIT Rates for Non-residents

Type of Taxable Income	Tax Rate (%)
Employment income	20
Business income	1 - 5 (based on type of business income)
Interest/ dividends	5
Sale of shares	0.1 (on sales proceeds)
Sale of real estate	2 (on sales proceeds)
Income from royalties / franchising	5
Income from inheritance / gifts / winning prizes	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 provisionally on a monthly basis by the 20th day of the following month or on a quarterly basis by the 30th day following the reporting quarter. 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 within 90 days of the year end. Expatriate employees are also required to carry out a PIT finalisation on termination of their Vietnamese assignments before exiting Vietnam. Tax refunds due to excess tax payments are only available to those who have a tax code.

For non-employment income, the 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 regular basis, often each time income is received.

Social, Health and Unemployment Insurance Contributions

Social insurance (“SI”) and

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 Vietnam labour contracts (*see Table 7 below for the SI/ HI/ UI rates*).

The salary subject to SI/HI/UI contributions is the salary stated in the labour contract, but this is capped at 20 times the minimum salary (the minimum salary is currently VND1,150,000 and subject to change during the year).

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

Other Taxes

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

Tax Audits and Penalties

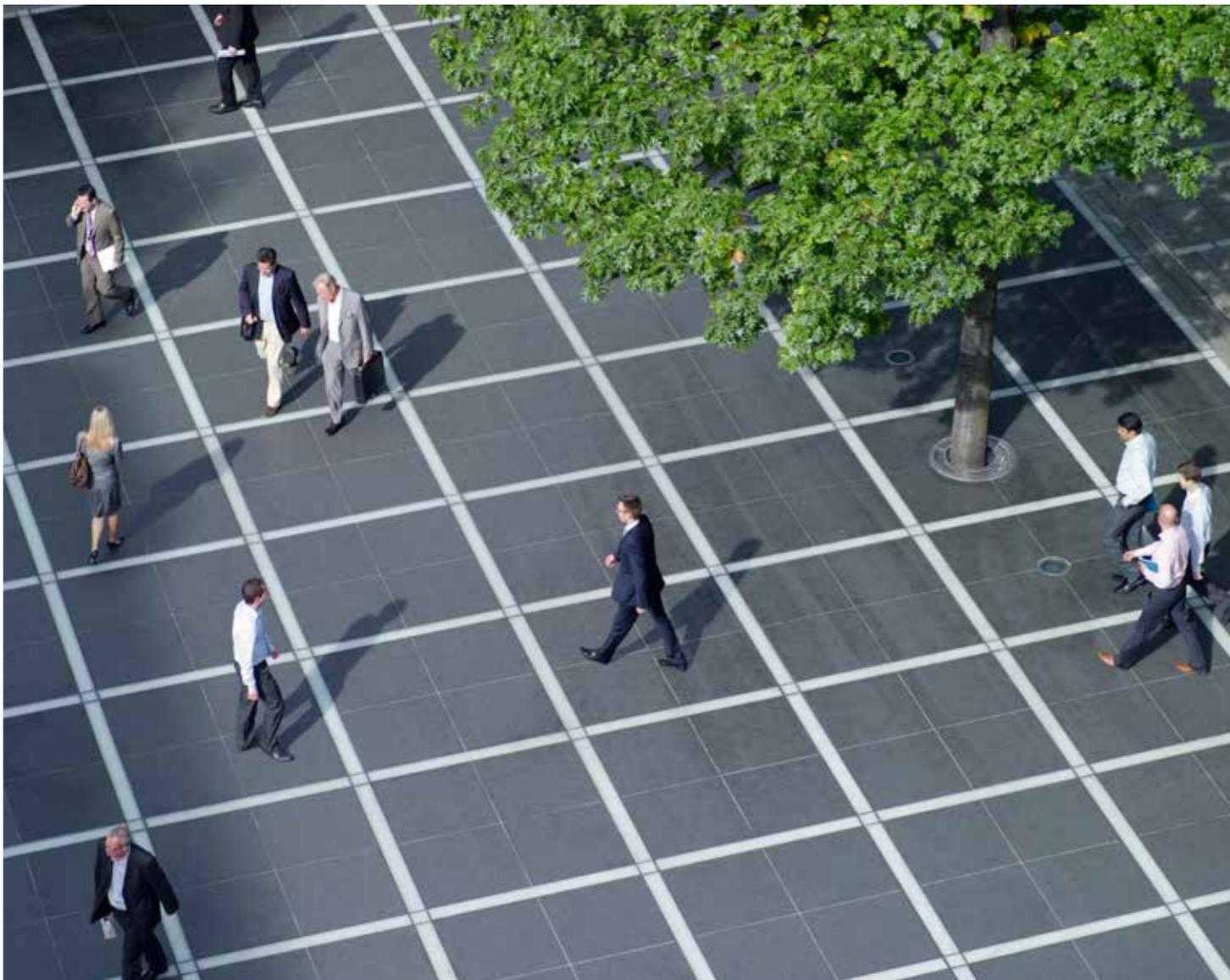
Tax audits are carried out regularly and often cover a number of tax years. Prior to an audit, the tax authorities send the taxpayer a written notice specifying the timing and scope of the audit inspection.

There are detailed 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 be imposed on the amount of tax under-declared. Late payment of tax is subject to interest of 0.05% of the tax liability for each day late, calculated from the statutory deadline to the date of actual payment if the number of days late is less than 90 days. Beyond 90 days, the daily interest rate increases to 0.07%.

The general statute of limitations for imposing tax and late payment interest is 10 years (effective 1 July 2013) and for penalties is up to 5 years. Where the taxpayer did not register for tax or commits evasion liable to criminal prosecution, the tax authorities can collect unpaid tax and penalties at any time.

Table 7: SI/HI/UI Contribution Rates

	SI	HI	UI	Total
Employee	8%	1.5%	1%	10.5%
Employer	18%	3%	1%	22%



Audit and Accounting

Regulatory Requirements

Books and Records

All companies in Vietnam are required to adopt the Vietnamese Accounting System.

Accounting records must be maintained in Vietnamese Dong ('VND') and documented in the Vietnamese language. A foreign-invested business entity is permitted to select a foreign currency to be used for its accounting records and financial statements if they meet a number of requirements as per local regulations.

The company can use electronic documents as accounting records, but must nevertheless print out and file those electronic papers in accordance with the Law on Accounting.

All companies must retain those accounting records used in the preparation of the accounting books for ten years, and five years for other accounting documents.

Accounts and Reports

The accounting period is generally 12 months in duration. The first accounting period must not be more than 15 months after the company's date of incorporation.

On incorporation, a company may choose an accounting closing date (i.e. the day and month on which an accounting period ends). This subsequently can be altered subject to the approval of the competent authorities.

A private company's annual accounts must be approved by the

Chief Accountant and the Legal Representative and a copy of the accounts must be submitted to the local authorities no later than the end of the first quarter of the following financial year.

Foreign Invested Enterprises

If a foreign invested business uses a modified form of the Vietnamese Accounting System, a written approval from the Ministry of Finance is required.

The annual financial statements of all foreign-invested business entities must be audited by an independent auditor operating in Vietnam. Audited annual financial statements must be completed and filed within 90 days from the end of the financial year. The financial statements should be filed with the applicable licensing body, Ministry of Finance, local tax authority, Department of Statistics, and other local authorities if required by law.

Foreign invested enterprises and organisations incorporated and operating in Vietnam using foreign currency as the reporting currency unit in their financial statements are required to concurrently prepare financial statements in such foreign currency and translate them into VND upon submission to the competent authorities.

Audit Requirements

Vietnam has issued 26 accounting standards and 42 auditing standards (37 standards were issued in 2013 and 5 old standards are still effective) which are primarily based on international standards with some local modifications.

In addition to foreign-invested enterprises, all public interest entities (i.e. listed entities, insurance companies and other financial institutions) together with any other entities involved in special circumstances such as mergers and acquisitions, changes in ownership transformation, termination and bankruptcy, must be audited by an independent auditor operating in Vietnam.

Only audit firms in the annual approved list issued by the State Securities Committee are allowed to conduct the audit for public interest entities.

There is a requirement to rotate audit firms after five consecutive years for banks, non-banking credit institutions and foreign banks' branches.



Human Resources and Employment Law

Employment Law

Vietnam's population is over 90 million and is expected to grow at an annual rate of 1.3%. Around 60% of the population is under 25 years of age. Approximately 15% of the population is considered to be trained or skilled (with elementary qualifications or higher).

The new Labour Code, which became effective 1 May 2013, creates a legal framework that sets out, inter alia, the rights and obligations of employers and employees with respect to working hours, labour agreements, payment of social insurance, overtime, strikes, and termination of employment contracts. In addition, there are some new implementing decrees guiding the provisions of the new Labour Code, for example the decrees on labour contracts and disputes.

The law provides for an 8-hour working day and a 48-hour working week. An employer and an employee may agree that an employee works overtime, provided that the total overtime worked does not exceed 200 hours per year. In special circumstances and with notification to the relevant authorities, the maximum overtime can be increased to 300 hours per year.

In a labour contract with Vietnamese workers, wages and salaries must be set in Vietnamese dong. The wages of employees are subject to minimum rates determined by the Government from time to time.

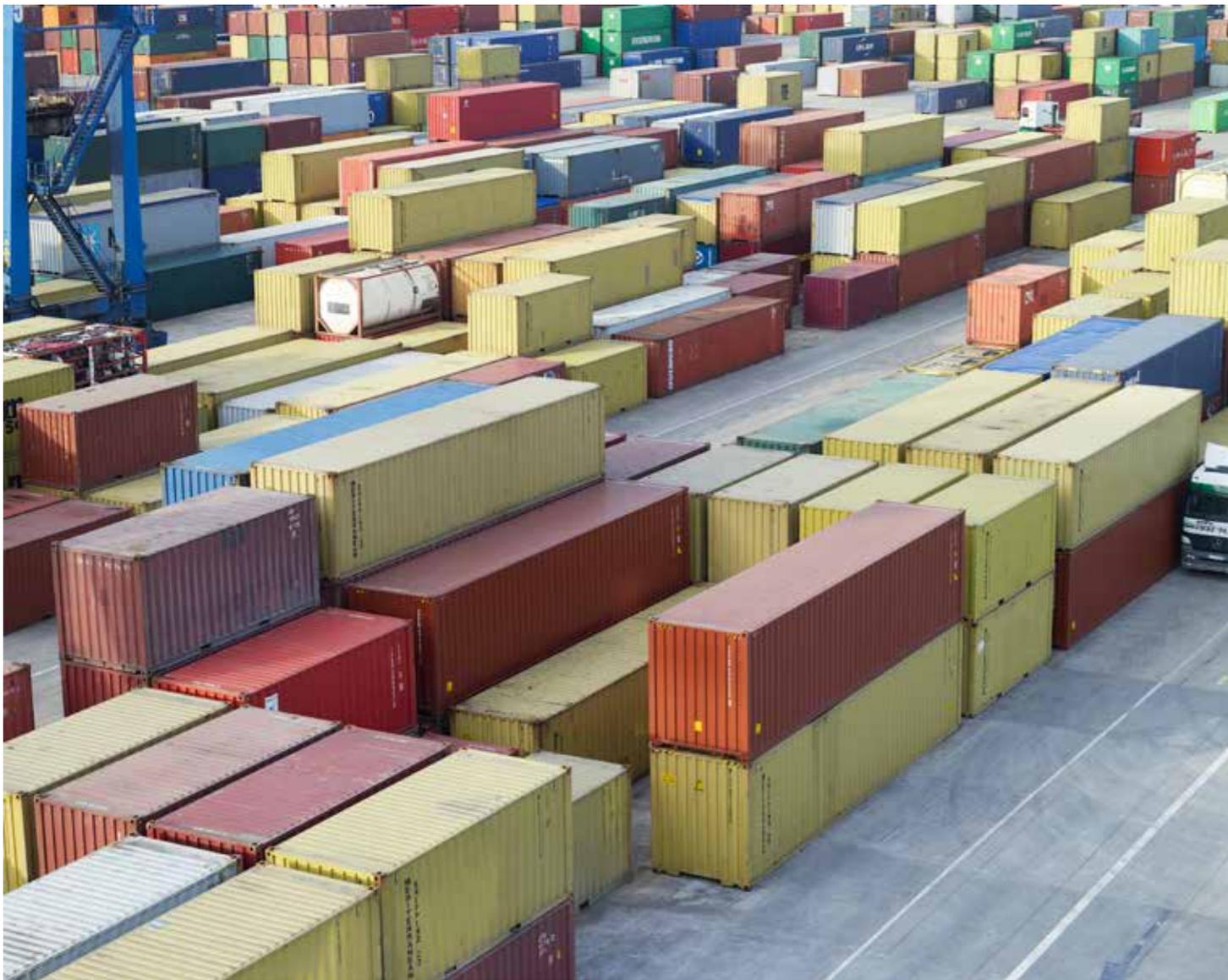
Foreigners working in Vietnam must generally have a work permit issued by the labour management authority. In order to obtain a work permit, foreigners assigned to work in Vietnam are required to show a degree of proprietary knowledge, a special skill or a manager/ executive-level skill not readily available in the domestic labour market.

Under the new Labour Code, the maximum duration of a work permit is 24 months (which can however be extended subject to certain conditions).

Immigration

Foreigners coming to Vietnam must obtain a visa (with certain exceptions under treaties or other reciprocal agreements) from the Vietnamese Immigration Department or Vietnamese embassies/consulate offices in foreign countries.

A business visa is issued to foreign individuals who conduct business in Vietnam.



Trade

Following Vietnam's accession to the WTO in 2007, the market was liberalised in certain areas, including the trading of goods.

Under Vietnamese law, the trading of goods by foreign invested enterprises covers the following areas:

- 'Right to import' refers to the rights to import goods into Vietnam for sale to business entities that themselves have the right to distribute the goods in Vietnam. The import right does not include the right to organise or participate in the distribution of goods in Vietnam.

- 'Right to export' refers to the right to purchase goods in Vietnam for export. The export right does not include the right to organise a network of collecting and purchasing goods in Vietnam for export.

- 'Distribution right' means the right to directly undertake activities of distribution, consisting of:

- (i) being an agent for the purchase and sale of goods;
- (ii) wholesale distribution;
- (iii) retail distribution; or
- (iv) franchising.

Vietnamese enterprises are free to carry out trading activities in Vietnam and are permitted to directly export and import all goods, except for certain restricted goods where a special business licence must be obtained from the relevant State authorities.

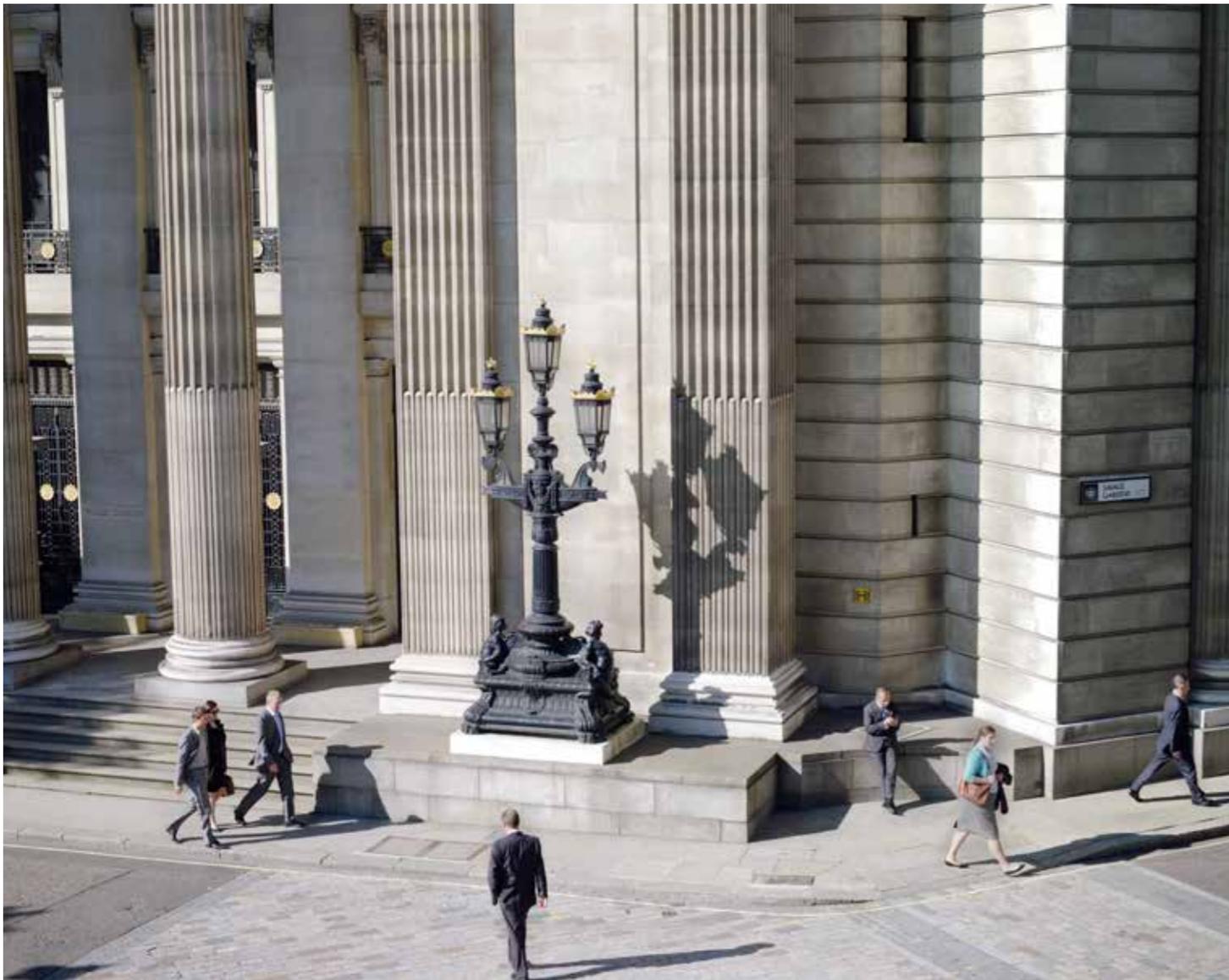
Foreign invested enterprises in Vietnam may directly distribute or set up distribution networks to sell the products they manufacture in Vietnam and may export their products directly.

The establishment of pure trading or distribution businesses not associated with manufacturing activities by foreign investors was restricted before Vietnam joined the WTO. However, in accordance with Vietnam's WTO commitments, the law now permits 100% foreign-owned enterprises to undertake distribution activities in most sectors. However, various sectors are still subject to restrictions.

In practice, as the Vietnamese government wishes to protect domestic distribution enterprises, retail distribution by foreign investors in Vietnam is still restricted. For more than one retail outlet, the approval must be considered by the licensing authorities based on an Economic Needs Test ('ENT'), which considers the following criteria:

- (i) existing service suppliers in a particular geographic area;
- (ii) stability of market; and
- (iii) geographic scale.

In April 2013 the Ministry of Industry and Trade issued a new regulation which provides an exemption from the ENT procedures for retail outlets that are less than 500m² in size and located in facilities constructed for the purpose of selling goods (although the establishment of such an outlet is still subject to approval of the licensing authority).



Banking and Foreign Exchange Controls

Banking

Generally, all foreign investors with established presences in Vietnam will need to open a bank account in order to conduct their business in Vietnam.

Foreign investors in Vietnam may open accounts denominated in Vietnamese dong, and may also open accounts denominated in United States dollars and other foreign currencies.

Banks include domestic commercial banks, state-owned commercial banks, 100% foreign-owned subsidiary banks, foreign bank branches and cooperative banks.

The Law on Credit Institutions allows commercial banks to provide a wide range of products and services, from traditional financial products to fund management and securities business.

Foreign Exchange Controls

The Vietnamese dong is not freely convertible and cannot be remitted overseas. The Government has been implementing measures to gradually reduce the country's dependency on the US dollar.

All buying, selling, lending and transfer of foreign currency must be made through banks and other financial institutions authorised by the State Bank of Vietnam ("SBV"). As a general rule, all monetary transactions in Vietnam must be undertaken in Vietnamese dong. Payments, contracts, quotations, etc. within Vietnam must generally be in Vietnamese dong.

Foreign invested enterprises may, subject to certain conditions, buy foreign currency from banks to make certain foreign currency payments to overseas.

The outflow of foreign currency by transfer is only authorised for certain transactions such as payments for imports and services abroad, repayment of certain loans and the payment of interest accrued thereon, transfers of profits and dividends and for transfer of technology/ royalties.

Foreign investors and foreigners working in Vietnam are permitted to transfer abroad profits and income earned in Vietnam, and any remaining invested capital upon the liquidation of an investment project.

Supporting documents evidencing the legitimate purpose of transferring foreign currency abroad are required to be submitted to the remitting bank in order to purchase and remit foreign currency.



PwC Vietnam

PwC Vietnam helps organisations and individuals create the value they're looking for. We're a member of the PwC network of firms, which operates in 157 countries around the world and employs more than 184,000 staff. Our people throughout the network are committed to delivering the highest standards of quality in relation to the assurance, legal, taxation and advisory services we deliver.

PwC Vietnam established offices in Hanoi and Ho Chi Minh City in 1994. Our team of more than 650 local and expatriate staff have a thorough understanding of the economy in which they work and have a wide knowledge of Vietnam's policies and procedures covering areas such as investment, legal, taxation and regulatory matters, accounting and mergers/ acquisitions.

We also operate a foreign law company, licensed in Vietnam by the Ministry of Justice in 2000, with a head office in Ho Chi Minh City and a branch office in Hanoi.

We have built strong relationships with key ministries, financial institutions, state-owned enterprises, private companies, commercial organisations and the ODA (Official Development Assistance) community in Vietnam.

Industry Insights

Our teams are organised by business area to provide focused support on issues specific to any given industry. We have expertise in the following industries, amongst others:

- Banking and capital markets
- Engineering and construction
- Financial services

- Industrial products
- Oil and gas
- Pharmaceuticals and healthcare
- Real estate
- Retail and consumer
- Technology
- Telecommunications

Our Services

PwC Vietnam provides clients with high-quality and industry-focused services, by developing and cultivating strong interpersonal relationships in order to truly understand your business and your needs. We can draw upon rich specialist resources from our regional and global network, combined with deep experience of the Vietnamese market. Our multi-disciplinary practice allows us to provide an unrivalled level of support to our clients. Discover the benefits we can bring to you – whatever the size of your organisation – in the following areas:

- Audit and Assurance
- Advisory
- Legal
- Tax

We also provide tailored support to special groups of clients with service packages such as Private Business Services, Japanese Business Services, Korean Business Services, and Chinese and Taiwanese Business Services.

Our Values

We take pride in adding value through our services by improving the transparency, trust, and consistency of business processes. Our core values of Excellence, Teamwork and Leadership help us deliver high-impact support to our clients.

Excellence: Delivering what we promise and adding value beyond what is expected. We achieve excellence through innovation, learning and agility.

Teamwork: The best solutions come from working together with colleagues and clients. Effective teamwork requires relationships, respect and sharing.

Leadership: Leading with clients, leading with people and thought leadership. Leadership demands courage, vision and integrity.

Our Selected Awards

- Dealmakers of the Year-Vietnam, 2014
Acquisition International
- Notable M&A Law Firm, 2014
IFLR1000
- Sustained Excellence in Tax Consultancy, 2014
Acquisition International
- Certificate of Merit for Contribution to the Tax Consultancy Profession, 2013
Prime Minister of Vietnam
- Legal & Tax Advisory Firm of the Year, 2013
Acquisition International
- Tax Controversy Leaders, 2013
International Tax Review
- Certificate of Merit for Contribution to the Independent Auditing Profession, 2011
Prime Minister of Vietnam
- Advisory Firm of the Year, 2011
DealMakers Monthly
- First Firm in Vietnam to be Approved as a Recognized Employer for CPA Australia, 2011
- Tax Disputes Firm of the Year, 2010
International Tax Review
- Golden Dragon Award for Contribution to Vietnam's Economic Development, 2011, 2010, 2009, 2008
Vietnam Economic Times

Corporate Responsibility

At PwC Vietnam, the core of Corporate Responsibility is about integrating social, environmental and economic integrity into our values, culture and decision-making. We understand that we all have an obligation as business leaders, not only to do the right thing by embedding good social, environmental and economic practices into our everyday business, but also to be a catalyst for change by promoting these ethical and transparent business practices to the marketplace as well.

Our Corporate Responsibility strategy focuses our time, efforts and commitments into four areas: diversity & inclusion, community engagement, environmental stewardship, and responsible business.

Country Overview

<i>Capital city</i>	Hanoi
<i>Area and population</i>	331 thousand sq. km; 90 m
<i>Language</i>	Vietnamese
<i>Currency</i>	Vietnamese Dong
<i>International dialling code</i>	+84
<i>Business and banking hours</i>	Generally 8am to 5pm, Monday to Friday but many banks and businesses now operate extended opening hours
<i>Stock Exchange</i>	Ho Chi Minh City Stock Exchange Ha Noi Stock Exchange
<i>Political structure</i>	Vietnam is a socialist country operating under the single-party leadership of the Communist Party. A nationwide congress ('National Congress') of Vietnam's Communist Party is held every five years determining the country's orientation and strategies and adopting its key policies on solutions for socio-economic development. The National Congress elects the central committee, which in turn elects the politburo.

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