VIETNAM TAX POCKET GUIDE 2020

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DFDL TAX POCKET GUIDE TO VIETNAM

Contents

1. Language

Vietnam's official language is Vietnamese. All laws and regulations are in Vietnamese.

2. Currency

The currency of Vietnam is the Vietnamese Dong ("**VND**"). VND is still not a convertible currency. As a general rule, every transaction in Vietnam must be carried out in VND unless specifically allowed under the foreign exchange control regulations.

3. Accounting Principles

Vietnamese Accounting Standards (**"VAS"**) and the Vietnamese accounting system need to be adopted by taxpayers in Vietnam. The financial year is generally the calendar year (1 January to 31 December) or any 12-month period ending on 31 March, 30 June or 30 September.

Accounting records are generally required to be maintained in VND.

4. Tax Filing System

The corporate tax year is the financial year. A taxpayer must notify the tax authorities if its financial year differs from the calendar year.

Appendix 1 – Vietnam Tax Compliance Table sets out the filing timelines/deadlines for the respective types of taxes in Vietnam.

Each legal entity in Vietnam is responsible for filing its own tax returns and settling the tax liabilities based on the applicable tax regulations. There is no tax consolidation in Vietnam.

5. Tax Rulings

Taxpayers may apply for private tax rulings from the local tax authorities or from the General Department of Taxation for clarity on the specific tax treatment applicable to a particular context or scenario.

Taxpayers will not be subject to penalties or interest for late payments of tax where the tax was calculated and paid in accordance with tax rulings issued by the tax authorities.

6. Tax Audits

Vietnam applies a self-assessment regime under which taxpayers are responsible for determining and declaring their own tax liabilities based on Vietnamese tax laws and regulations. Corporate taxpayers may be subject to periodic tax audits by the tax authorities. '*Tax audit, tax examination* and *tax inspection'* are terms commonly used in Vietnam to describe a review by the tax authorities of a taxpayer's circumstances or transactions.

Taxpayers can also be audited by State Auditors or State Inspectors in addition to the tax authorities.

The general statute of limitations for imposing tax and interest on late payment of tax is ten years and for penalties this is up to five years.

7. Penalties

Penalties can apply to a failure to file, late filing or the filing of a fraudulent tax return. A taxpayer may be subject to one or a combination of penalties, which can vary depending on the type and extent of the tax offence. These penalties can include late payment interest of 0.03% per day, a penalty of 20% on under-declared tax amounts and more stringent penalties for tax evasion (up to three times the outstanding tax).

Taxpayers can request interest of 0.03% per day for any overpayment of tax or penalties that were paid in accordance with the verdict/decision issued by the relevant court or competent authorities. The tax authorities will also be required to pay interest if they issue decisions authorizing a tax refund after the statutory deadline on their side has passed.

8. Remitting Profits

Foreign investors can remit their profits at the end of the financial year or upon termination of the investment in Vietnam. Dividends can only be paid where a company has retained earnings (i.e. no accumulated losses).

9. Tax Incentives

- **Types of Tax Incentives**

  The Law on Investment specifies three forms of incentives that are available to investors:

  a) A lower rate of corporate income tax ("**CIT**") for a certain period of time or throughout the life of the project. In general, a new investment project may be entitled to:

    1) A preferential CIT rate of 10%, 15% or 17% starting from the first year of generating revenue, and

    2) A tax exemption for a period of two to four years from the first profitable year, and a further 50% reduction of CIT for four to nine years following the tax exemption period. If the investment project is not profitable in the first three years of operation, the tax exemption period will automatically commence from the fourth year.

  b) Exemption from import duty on fixed assets that are imported into Vietnam. These can include:

    - Equipment and machinery;
    - Specialized means of transportation used directly for the project, which are currently not possible to produce domestically; and
    - Construction materials which cannot be produced domestically in Vietnam.

  c) An exemption or reduction of land rent, land use fees and land levies.

- **Tax Incentives Conditions**

  For an investment project to be entitled to tax incentives in Vietnam, it must be a new project or an expansion of an existing one. One of the following conditions must be satisfied:

  a) It must be an investment project in a "promoted sector" (such as the production of new materials, renewable energy, high technology, industrial supporting products, software production, socialization sectors, social welfare schemes etc.); or

  b) It must be established in "localities that are encouraged for investment'' including special areas/zones (e.g. special economic zones) and remote areas deemed to be facing difficulties or unfavorable economic conditions; or

  c) It is a large-scale manufacturing project that meets the required conditions on capital, revenue, etc.

- **Corporate Income Tax Incentives Summary**

  Appendix 2 – Corporate Income Tax Incentives Summary provides a list of the CIT incentives available in Vietnam.

The following main taxes are generally applicable to foreign invested companies and foreign contractors in Vietnam:

10. Corporate Income Tax ("CIT")

- **Tax Rate**

  The statutory CIT rate is 20%. The rate may be lower if the company is entitled to tax incentives.

  The CIT rate applicable to the activities of prospecting, exploration and mining of petroleum, gas and other rare and precious natural resources ranges from 32% to 50%, depending on the specific project.

- **Taxable Income**

  Taxable income (profit) is taxable revenue minus deductible expenses.

- **Taxable Revenue**

  Taxable revenue consists of income derived from sales, the provision of services and any subsidies along with charges and surpluses earned by the company. Revenue is generally recognized on an accrual basis.

- **Deductible Expenses**

  Generally, an expense is deductible for tax purposes if:

  - The expense is properly substantiated by invoices and contracts;
  - Is directly related to the taxpayer's business activities;
  - Is not specifically excluded as a non-deductible expense per the regulations; and
  - Is supported by sufficient bank transfer documentary evidence in regard to expenses of VND 20 million or above (VAT inclusive).

  The CIT regulations contain a list of non-deductible expenses. Certain expenses, including specific employment-related benefits are non-deductible. Generally, if an expense item is not specifically included in the list of non-deductible expenses or those expenses with limited deductibility, the expense should be deductible for CIT purposes provided that it meets the above conditions. In practice, the onus to prove the deductibility is on the taxpayer.

- **Tax Losses**

  Tax losses may be carried forward to the following year and offset against profits of subsequent years for a maximum period of five years. The carrying back of tax losses is not permitted.

- **Tax Compliance**

  Taxpayers are required to calculate and pay provisional CIT on a quarterly basis (if any) based on the actual revenue and expenses of the quarter and conduct an annual CIT finalization at the end of the tax year.

  If the provisional quarterly CIT payments account for less than 80% of the final CIT liability, any shortfall in excess of 20% is subject to late payment interest of 0.03% per day from the Quarter 4 CIT liability payment deadline.

11. Transfer Pricing ("TP")

Vietnam has implemented transfer pricing rules that are broadly in line with the Organization for Economic Co-operation and Development's ("**OECD**") Transfer Pricing Guidelines. Contemporaneous documentation is required for transactions between related parties.

These Transfer Pricing Rules apply to both domestic and cross-border transactions. A related party relationship is deemed to exist where:

a) One party is directly or indirectly involved in the administration, control, capital contribution or investment in any form of the other party; or

b) Both parties are directly or indirectly managed or controlled by a third party or both parties make capital contributions or invest in any form in a third party.

A taxpayer may be exempt from the requirement to prepare contemporaneous transfer pricing documentation if:

- Total revenue in the tax period is less than VND 50 billion and the total value of related party transactions is less than VND 30 billion.
- The taxpayer has an Advanced Price Agreement ("**APA**").
- The taxpayer performs business activities by exercising simple functions; not generating any revenue; not incurring any costs from the use of intangible assets; generating sales of less than VND 200 billion; or achieving a ratio of net operating profit before interest and CIT relative to revenue as follows:
  - Distribution: at least 5%;
  - Manufacturing: at least 10%; and
  - Toll Manufacturing: at least 15%.

- **Transfer Pricing Methods**

  The Vietnamese Transfer Pricing Rules adopt the OECD's five recommended transfer pricing methods used to determine the arm's length price. It does not mandate a hierarchy for use of the methods, but requires the use of the "most appropriate method" based on the conditions surrounding the transaction and the most reliable data available. The five OECD methods are:

  a) Comparable Uncontrolled Price ("**CUP**") method;

  b) Resale price method ("**RPM**");

  c) Cost plus ("**CP**") method;

  d) Comparable profit method ("**CPM**") (or the Transactional Net Margin Method ("**TNMM**") as it is called in the OECD TP Guidelines); and

  e) Profit split method ("**PSM**").

- **Transfer Pricing Compliance**

  The two main transfer pricing compliance requirements are:

  a) Annual disclosure of transactions with related parties; and

  b) Contemporaneous transfer pricing documentation, which includes (i) Local File, (ii) Master File; and (iii) where applicable, a copy of the Country-by-Country Report.

- **'Substance Over Form' Principle**

  The Vietnamese tax authorities can apply a 'substance over form' approach to determine the tax obligations with respect to entities and transactions in Vietnam. The tax authorities can review the economic substance of transactions rather than the legal form.

- **Interest Deductibility Cap**

  Vietnam has an interest deductibility cap at 30% of EBITDA (Earnings Before Interest, Tax, Depreciation and Amortization) that applies to related and third-party loans. Loan interest expenses for the calculation of the cap are net interest expenses, i.e. after offsetting against interest income.

  Non-deductible loan interest expenses can be carried forward to the following year and deductible if the interest expenses of the following years do not exceed the 30% cap, for a maximum period of five years.

- **Intercompany Services**

  Under the Vietnamese transfer pricing rules, service fees that are paid to related parties must satisfy a number of conditions to be tax deductible. This includes a tax payer demonstrating that the services provide commercial, financial and economic value and that evidence be provided attesting to the reasonableness of the service fee calculation method. A tax deduction will not be allowed if the direct benefit or additional value to the tax payer cannot be determined, for instance, duplicated services, shareholder costs.

12. Value Added Tax ("VAT")

- **Value Added Tax Rates**

  VAT is imposed on production, trading, consumption of goods and the provision of services in Vietnam.

  The standard VAT rate is 10%. A 0% (zero) rate applies to the exportation of goods and services, while a 5% rate applies to a prescribed list of goods and services. VAT exemptions can apply to certain specific goods and services as stipulated in the regulations.

- **Declaration Method**

  There are two methods to calculate VAT:

  a) *The direct method*: applies to certain specific cases, for example:

  - Companies with annual revenue of less than VND 1 billion;
  - Newly established enterprises (except for those that voluntarily apply the deduction/credit method);
  - Individual and business households.

  The VAT payable is calculated on the value added of goods or services sold multiplied by the applicable VAT rate.

  b) *The deduction method (credit method)*: applies to companies maintaining full books of accounts, invoices and documents in accordance with the tax regulations, including:

  - Companies with annual revenue of VND 1 billion or more;
  - Companies which voluntarily register for VAT declaration under the deduction method.

- **VAT Credits**

  Under the deduction method, input VAT can be claimed when there is a VAT-able supply of goods or services in Vietnam. The VAT payable is the difference between the output VAT charged on the supply of goods and services and the input VAT charged by suppliers.

  Taxpayers that supply goods or services that are VAT-exempt cannot claim input VAT credits.

  Input VAT credits may be claimed within the month when such input VAT is incurred or at any time prior to a tax audit by the tax authorities.

- **VAT Refunds**

  VAT refunds are available to corporate taxpayers that file for VAT under the deduction method and maintain an accounting system as required under relevant regulations. Only certain corporate taxpayers can claim a VAT refund in limited circumstances, these mainly include: companies with export sales and new projects at the pre-operation/investment phase..

  In other cases where the input VAT of the taxpayer exceeds the output VAT, the taxpayer will have to carry forward the excess input VAT and offset it against future output VAT.

- **VAT Filing**

  Taxpayers must file VAT returns on a monthly or quarterly basis.

13. Withholding Tax / Foreign Contractor Tax (“FCT”)

- **Basis of Withholding Tax/FCT**

  Withholding tax or FCT is a mechanism to collect tax applied to foreign entities that have no legal presence in Vietnam or non-resident individuals that conduct business locally or that have Vietnam-sourced income. FCT consists of an income tax component (i.e. CIT for companies and personal income tax for individuals) and a VAT component.

- **Withholding Method**

  The most common method for non-residents to pay and declare taxes in Vietnam is the withholding method. Under this method, the Vietnamese contracting party is required to withhold, pay and file the tax on behalf of the foreign contractor. The tax is calculated as a deemed percentage of the foreign contractor's gross income.

  The withholding tax rates depend on the goods or services supplied in Vietnam.

  The following table shows the main withholding tax / FCT rates for non-residents in Vietnam:

Business activities/ transactions	Effective VAT rate (%)	Deemed CIT rate (%)
Trading, including: distributing goods, raw materials, machinery and equipment attached to services in Vietnam (including supply of on-the-spot export and import, except for processed goods for foreign organizations, individuals); supply of goods under Incoterms conditions in certain cases	n/a[1]	1
Supplies of goods and services where the value of the goods and services are not separated	3	2
Services, leasing of equipment (including oil rigs), insurance	5	5
Restaurant, hotel, casino management services	5	10
Construction, installation (not including the value of the construction materials or equipment)	5	2
Construction, installation (including the value of the construction materials or equipment)	3	2
Transportation (including sea and air transportation)	3	2
Leasing aircraft, aircraft engines and spare parts for aircraft and vessels.	Exempt	2
Transfer of securities and re-insurance	Exempt	0.1
Interest	Exempt	5
Financial derivatives	Exempt	2
Royalties	Exempt / 5%	10
Other business activities	2	2

[1] No FCT-VAT imposed in this case as the goods are already subject to import VAT.

There are also other declaration methods of FCT liabilities, the deduction method and the hybrid method.

- **Deduction Method**

  Under the deduction method, a foreign contractor will register to fully adopt Vietnamese Accounting Standards**.** From a tax compliance perspective, under the deduction method a foreign contractor will file CIT and VAT in the same manner as a local entity in Vietnam.

- **Hybrid Method**

  The hybrid method is a combination of the withholding and deduction methods. Under the hybrid method, a foreign contractor can declare and pay its VAT as per the deduction method and its CIT by the withholding method.

- **Dividends**

  Currently there is no withholding tax on dividends paid to non-resident shareholders that are corporate entities. Dividends paid to individuals other than owners of sole-member limited liability companies or private companies owned by one individual are subject to a withholding tax of 5%.

- **Interest**

  Interest paid to a non-resident is subject to withholding tax of 5%, unless the rate is reduced under an applicable Double Tax Agreement (“**DTA**”).

- **Service and Management Fees**

  A withholding tax of 5% and VAT withholding of 5% generally applies to service and management fees paid to non-residents. Relief may be availed of under an applicable DTA.

- **Royalties**

  Royalties paid to a non-resident are subject to withholding tax of 10% and can be reduced under a DTA. Royalties paid to a non-resident for the transfer of the right to use trademarks are subject to additional VAT of 5%.

14. Import Duty

- **Import Duty Rates**

  Import duty is assessed on an ad valorem (on value) basis. Import duties fall into three categories: ordinary rates, preferential rates and special preferential rates.

- **Preferential Rates**

  Preferential rates are applicable to imported goods from countries that have "Most Favored Nation" (“**MFN**”) status with Vietnam. As Vietnam is a member of the World Trade Organization (“**WTO**”), the MFN rates are in accordance with WTO rules and are applicable to goods imported from other WTO members. The preferential rates generally range from 0% to 135%.

- **Special Preferential Rates**

  Special preferential tariffs apply to goods imported from countries that have a special preferential agreement with Vietnam, such as the ASEAN Trade in Goods Agreement (“**ATIGA**”), ASEAN Free Trade Agreement (“**AFTA**”), agreements between ASEAN and South Korea, Japan, Australia, New Zealand and China, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“**CPTPP**”) and the EU-Vietnam Free Trade Agreement (“**EVFTA**”).

15. Export Duty

Vietnam is encouraging export-based activities and most exported goods are exempt from export duties. Export duties are imposed on certain items including: natural resources such as minerals, forestry products and scrap metal. Export duty rates can range from 0% to 40%.

16. Special Sales Tax ("SST")

- **Basis of Special Sales Tax**

  Special sales tax (excise tax) applies to the production, importation and trading of certain luxury goods and services, or goods and services that whose consumption is discouraged in Vietnam.

  Goods and services subject to SST include cigarettes, cigars, spirits/wine, beers, automobiles with less than 24 seats, high-capacity motorcycles, aircraft, yachts, gasoline, air-conditioners up to 90,000 BTU, playing cards, votive papers, discotheques, massage, karaoke, casinos, jackpots, slots, entertainment with betting, golf courses and lottery activities.

- **Tax Rates**

  SST rates can range from 5% to 150%.

17. Personal Income Tax ("PIT")

- **Basis of Personal Income Tax**

  The taxation of individuals in Vietnam depends on their tax residency status.

  Vietnamese resident employees are subject to PIT. Additionally, non-residents of Vietnam are subject to PIT on their Vietnam-sourced income.

- **Tax Year**

  The tax year is the calendar year running from January to December. The first tax year for individuals is the 12-month period starting from their date of arrival in Vietnam. Subsequent tax years will follow the calendar year format.

- **Tax Residents**

  Tax residents of Vietnam fall within the following categories:

  a) Individuals who are physically present in Vietnam for at least 183 days within a tax year; or

  b) Individuals who have a permanent residence in Vietnam or have leased a residence in Vietnam where the total number of leased days according to the lease contract is 183 days or more in a calendar year and the individual cannot prove tax residency in another country.

- **Taxable Income**

  Taxable employment income includes most employment benefits (in cash or in kind). Taxable income also includes dividends, business income with annual revenue exceeding VND 100 million, capital gains, income from inheritances, income from franchising, gifts or winnings and transfers of property.

- **Allowable Deductions**

  Tax residents of Vietnam are entitled to certain deductions before the calculation of personal income tax. Deductions are mainly granted for compulsory social security contributions, personal deductions and those concerning dependents.

- **Tax Rates**

  Tax residents of Vietnam are subject to tax on their worldwide income. Employment income is subject to personal income tax at progressive tax rates from 5% to 35%. Non-residents of Vietnam are subject to a flat rate of 20% on their Vietnamese-sourced employment income.

  Non-employment income is taxed at rates ranging from 0.1% to 20% depending on the nature of the income.

- **Withholding Obligations**

  The employer is obliged to withhold personal income tax from its employees and submit tax declarations to the tax authorities.

  Personal income tax must be reported and paid on a monthly or quarterly basis. The income payer is also required to conduct an annual tax finalization which will detail the tax it has withheld and submitted during the year.

18. Social Security Contributions

- **Compulsory Social Security**

  Social insurance contributions to cover work-related accidents, occupational disease, health insurance and unemployment insurance for employees is compulsory in Vietnam.

- **Social Security Rates**

  The rates for social security contributions are as follows:

  - For Vietnamese employees: 21.5% by the employer and 10.5% by the employee, in which mandatory unemployment insurance rates are 1% for employers and 1% for employees.
  - For foreign employees: 6.5% by employers and 1.5% by employees. The contributions will increase to 20.5% for employers and 9.5% for employees from 1 January 2022.

  The basis for calculating social insurance contributions is the salary/remuneration, salary allowances and other additional contractual payments which are paid regularly to employees. The social insurance contributions are capped at 20 times the general minimum salary (which is approximately USD 65 as periodically updated and stipulated by the Vietnamese Government). There is an exception to the capped amount for mandatory unemployment insurance contributions which is set at 20 times the provincial minimum salary (which is approximately USD 180 in big metropolitan areas such as Hanoi and Ho Chi Minh City and is updated periodically).

19. Capital Gains Tax

Vietnam has no separate capital gains tax regime. Capital gains are included as part of income tax.

Transfers of securities (including bonds and shares issued by public joint stock companies) by a non-resident corporate shareholder are subject to deemed withholding tax of 0.1% on the sales proceeds.

Transfers of capital or shares in other cases by a non-resident corporate shareholder are considered “capital transfers” and subject to 20% CIT.

Capital gains are generally calculated as follows:

Capital gain = Transfer price – Cost of purchase –Transfer expenses

The “transfer price” refers to the proceeds received by the transferor based on a contract or agreement. Where a contract does not specify the transfer price or where the tax authorities have a basis to conclude that the transaction was <u>not</u> at market value, the tax authorities may deem a different transfer price based on their market value assessment of the transaction.

The "cost of purchase" is normally calculated using the financial statements relating to the total capital contribution at the time of the transfer. If the assigned capital was previously repurchased by the transferor, the cost of purchase is the previous contractual price that the transferor paid for the capital.

"Transfer expenses" include legal expenses and other expenses directly relating to the transfer. Transfer expenses must be supported by relevant supporting documents acceptable to the tax office, including legal expenses and other incidental expenses.

Where a DTA is applicable, an exemption from capital gains tax may apply provided that certain conditions are met.

Indirect Transfers of Shares

Indirect sales or transfers of shares in Vietnamese companies may be taxable in Vietnam. The tax regulations broadly define Vietnam-sourced income to include income from capital assignments, irrespective of whether the transaction is conducted in Vietnam or elsewhere. There are a number of rulings issued by the Vietnamese tax authorities and cases confirming this tax treatment in Vietnam.

In one of the official letters issued by the Vietnamese tax authorities, it was confirmed that the indirect transfer of shares in Vietnamese entities will be subject to tax in Vietnam. The letter provided some additional guidance on the computation and withholding mechanism for the tax, and confirmed that it is the Vietnamese entity whose shares are transferred that will be required to file the tax declaration and pay the tax. Nevertheless, there are uncertainties in terms of how to determine the capital gains resulting from an indirect transfer of shares when the transfer of shares in an offshore entity involves assets in other enterprises (other than the Vietnamese enterprise) or where there are multiple layers of holding companies. The tax authorities will often become aware that a transfer has occurred as a result of changes to the licenses of Vietnamese companies or from the media in the case of large transactions or from conducting tax audits on companies in Vietnam.

20. Environmental Protection Tax

Environmental Protection Tax is levied on certain goods where the consumption or utilization of those goods is considered to have a negative impact on the environment. Goods that are subject to Environmental Protection Tax include: petrol, oil, grease, coal, HCFCs (hydrochlorofluorocarbons), plastic bags, herbicides, termiticides, forest product preservatives and storehouse disinfectants.

Tax Exemption

An exemption from the Environmental Protection Tax applies to the following:

a) Goods in transit which are transported through the borders of Vietnam;

b) Goods temporarily imported that are re-exported from Vietnam in accordance with relevant regulations; and

c) Exported goods.

21. Non-Agricultural Land Use Tax

A non-agricultural land use tax is levied on urban and rural residential land and land areas that are used for non-agricultural businesses including:

- Industrial park developments;
- Manufacturing premises;
- Business offices;
- Mineral exploitation; and
- Housing developments.

The non-agricultural tax will not apply to land areas that are used for infrastructure developments that serve the public interest (e.g. ports, roads etc.). Furthermore, public sector investment projects (e.g. education, training, healthcare, sport) that meet certain conditions, projects that are based in remote localities or those with socio-economic difficulties or special promoted projects may be exempt from the tax.

The tax is calculated based on the land area used by taxpayers and the price per square meter of land as determined by the relevant local provincial authorities.

22. Natural Resources Tax

Natural Resources Tax is payable by industries exploiting Vietnam's natural resources including petroleum, minerals, natural gas, forestry products and natural water. The tax rates vary from 1% to 40% depending on the natural resources being exploited.

23. Business License Fees

For newly established companies, the taxpayer is required to declare and pay a business license fee prior to the last day of the month in which the company starts its operations. In the event that a newly established company has not commenced operations, the deadline for the declaration and payment of the business license fee is 30 days from the initial date of its enterprise registration certificate.

The annual business license fee ranges from VND 1 million to 3 million depending on the company's level of registered capital.

24. Stamp Duty

Stamp duty is levied on certain types of assets that are registered for ownership, including: real property and transportation vehicles. The stamp duty rates can vary from 0.5% to 15%.

25. Double Tax Agreements (DTAs)

Vietnam has signed effective DTAs with 80 countries and territories.

Appendix 3 – Double Tax Agreements provides the list of DTAs that Vietnam has signed with 80 countries and territories.

26. Anti-Avoidance Rules

Vietnam has no General Anti-Avoidance Rules ("**GAAR**") under its domestic legislation. Nonetheless, it does have specific rules for dealing with cases of 'treaty shopping'.

Vietnam also has provisions under its tax laws for dealing with excessive tax deductions (such as depreciation, management fees, interest payments, etc.), undervalued transactions and other non-arm's length transactions.

Vietnam's tax treaty shopping rules are designed to deny tax treaty benefits if:

- Tax is incurred more than three years from the tax payment due date;
- The main purpose of an agreement or structure is to obtain treaty benefits; or
- It is determined that the person receiving treaty benefits is not the beneficial owner of the income.

27. Base Erosion and Profit Shifting ("BEPS") and Multilateral Instrument ("MLI")

Vietnam was the 100th country party to the OECD inclusive framework which implemented the BEPS measures.

As part of the inclusive framework, Vietnam is implementing a set of minimum standards to combat tax avoidance.

As of 12 March 2020 Vietnam, has yet to sign and deposit the instrument of ratification for the Multilateral Instrument ("**MLI**"). It is understood that this is currently under review by the Vietnamese tax authorities.

In accordance with the Government of Vietnam's Tax Administration Reform plan for 2016 – 2020, the implementation of the BEPS plans is scheduled to be implemented during this period. However, no additional details are provided as to the specific dates and for any domestic tax law amendments and the adoption of the MLI by Vietnam.

APPENDIX 1 Vietnam Tax Compliance Timetable

TYPES OF TAX	FREQUENCY	DUE DATE
Corporate Income Tax (CIT)	▪ Estimated quarterly provisional tax payments	▪ The 30th date of the following quarter
	▪ Annual return	▪ The last day of the third month from the end of the fiscal year
	▪ Ad hoc (transaction based) return	▪ The 10th day following the date when the tax liability is incurred
	▪ Return for cessation of business, completion of contract, change of ownership or re-organization	▪ The 45th day following the event or completion of the transaction.
Transfer Pricing (TP)	▪ Annual disclosure of related party transactions	▪ Together with the CIT annual return/reports
	▪ TP documentation	▪ Upon receiving a written request from the tax authorities within the prescribed timeframe: - 15 business days if it is requested during a tax audit; or - 30 business days if requested prior to a tax audit. An extension of another 15 business days may be allowed.
Value Added Tax (VAT)	▪ Monthly return; or ▪ Quarterly return	▪ The 20th of the following month; or ▪ The last day of the first month of the following quarter
Withholding tax or Foreign Contractor Tax (FCT)	▪ Registration of tax code	▪ Within 20 days following signing of the contract
	▪ Ad-hoc return; or ▪ Monthly return	▪ Within 10 days following the date of remitting the payable tax; or ▪ The 20th of the following month
	▪ Finalization	▪ Within 45 days following the completion date (of the contract)
Personal Income Tax (PIT)	▪ Tax code registration for individual employees	▪ The 10th before the first withholding and filing deadlines

TYPES OF TAX	FREQUENCY	DUE DATE
	▪ Monthly return; or ▪ Quarterly return	▪ The 20th of the following month; or ▪ The last day of the first month of the following quarter
	▪ Annual return (by the employer); or ▪ Annual return (by individual tax payer)	▪ The last day of the third month of the following year; or ▪ The last day of the fourth month of the following year;

APPENDIX 2 Tax Incentives Summary

The corporate income tax incentives and conditions required to obtain them are summarized in the table below. Please note that special administrative and economic areas may be entitled to other tax incentives in addition to what is listed below:

CONDITIONS	PREFERENTIAL TAX RATE	TAX EXEMPTION	50% REDUCTION OF CIT PAYABLE
▪ Income from new investment projects that are situated in areas that are deemed to face extreme socio-economic conditions and those located in economic zones and high-technology zones; ▪ Income from new investment projects engaged in the following sectors: - Scientific research and technological development; - High technology that is included in the list of technology prioritized for development according to the Law on High Technology; - Creation of high technology or high-tech enterprises; ventures in the development of high technology included in the list of high-technology prioritized for development according to the Law on High Technology; - Investments in and the development of water plants, power plants, water drainage and supply systems, bridges, roadways, railways, airports, seaports, river ports, air terminals, railway stations and extremely significant infrastructural projects that will be decided by the Prime Minister; - The production of software products; production of composite materials, light building materials, rare and valuable materials, renewable energy, waste-to-energy production and the development of biotechnology. ▪ Income of enterprises from the implementation of new environmental protection projects, including: manufacturing devices for the reduction of environmental pollution and	10% for 15 years from the first year that operating income is generated. The preferential tax rate may be extended to a maximum period of 30 years for certain projects described in this section if required conditions are met	Four years from the first profitable year	Nine subsequent years following the tax exemption period

CONDITIONS	PREFERENTIAL TAX RATE	TAX EXEMPTION	50% REDUCTION OF CIT PAYABLE
environment protection, environmental observation and analysis; wastewater collection and treatment, recycling or reuse of waste. ▪ Income generated by high-tech enterprises and by agricultural enterprises applying high-technology; ▪ Income generated by enterprises that implement new manufacturing investment projects (except projects engaged in product manufacturing subject to Special Sale Tax and mineral exploitation projects) that satisfy one of the following conditions: (i) the minimum investment capital of the project is VND 6 trillion which is disbursed within three years from the date of licensing and the annual revenues generated from the fourth year are at least VND 10 trillion; or (ii) the minimum investment capital of the project is at least VND 6 trillion which is disbursed within three years from the date of licensing and hiring more than 3,000 full time employees from the fourth year of revenue generation. ▪ Income from new manufacturing investment projects (except projects manufacturing products subject to a special sales tax and mineral exploitation projects) that satisfy the following conditions: (i) the minimum investment capital of the project is VND 12 trillion which is disbursed within five years from the date of licensing; and (ii) uses high-technology. ▪ Income of enterprises that implement new investment projects engaging in the following sectors: – Manufacturing of high-technology industrial supporting products in accordance with the Law on High Technology; and – Manufacturing of industrial supporting products for production in the sectors of textiles, garments, footwear, electronic/information technology, automobile assembly, and mechanics provided that such			

CONDITIONS	PREFERENTIAL TAX RATE	TAX EXEMPTION	50% REDUCTION OF CIT PAYABLE
products are not produced domestically as of 1 January 2015, or if produced domestically, the product quality must meet EU standards or other equivalents.			
▪ Income from new investment projects that are located in areas deemed to face extreme or adverse socio-economic conditions and are engaged in public sectors that call for private investment (i.e. education and training, vocational training, health care, culture, sport, the environment)	10% for the entire life of the project	Four years from the first profitable year	Nine subsequent years following the tax exemption period
▪ Income of enterprises engaged in public sectors that call for private investment ("**socialization sectors**") including: education and training, vocational training, health care, culture, sport, the environment and judicial expertise.	10% for the entire life of the project	Four years from the first profitable year	Five subsequent years following the tax exemption period
▪ Income from publishing activities by the publisher in accordance with the Law on Publishing. ▪ Income from the printing of newspapers in accordance with the Law on Press ▪ Income from projects relating to housing / accommodation for sale / lease to low-income communities ▪ Incomes of enterprises from the planting, cultivation and protection of forests; agriculture, forestry, and aquaculture in localities facing socio-economic difficulties. From the production, propagation and cross-breeding of plant varieties and livestock. From the production, extraction and refinement of salt. From the post-harvest preservation of agricultural products, aquaculture products and food ▪ Incomes of cooperatives engaged in agriculture, forestry, fisheries and salt production.	10% for the entire life of the project	NA	NA

CONDITIONS	PREFERENTIAL TAX RATE	TAX EXEMPTION	50% REDUCTION OF CIT PAYABLE
▪ Income of enterprises engaged in cultivating and breeding animals, processing agricultural and aquaculture products	15%	NA	NA
▪ Income of enterprises from implementing new investment projects located in areas that are deemed to face difficult socio-economic conditions; ▪ Income of enterprises that implement new investment projects engaged in the manufacturing of high-quality steel, power-saving products, machinery and equipment for utilization in agriculture, forestry, aquaculture, production of irrigation equipment; production and refinement of feed for livestock, poultry, and aquatic organisms; development of traditional crafts and trades (including the establishment and development of traditional handicraft production, farm produce, food processing and the production of cultural products);	17% for ten years from the first year that operating income is generated	two years from the first profitable year	four subsequent years following the tax exemption period
▪ Income of credit funds and microfinance institutions.	17% for the entire life of the project	NA	NA
▪ Income from prospecting and exploration activities involving rare and precious natural resources (except petroleum) with 70% of the mine fields in localities deemed to face extreme difficulties.	40% for the entire operations of the business	NA	NA
▪ Income from new investment projects located in industrial parks, except for industrial parks in localities deemed to possess favorable socio-economic conditions.	N/A	two years from the first profitable year	four subsequent years following the tax exemption period

APPENDIX 3 Double Tax Agreements ("DTAs")

Vietnam has signed DTAs with the following 80 countries and territories:

[order by signing dates]

NO.	COUNTRIES	SIGNING DATES	DATES ENTERING INTO FORCE
1	Australia	13/4/1992	30/12/1992
2	France	10/02/1993	1/7/1994
3	Thailand	23/12/1992	29/12/1992
4	Russia	27/5/1993	21/3/1996
5	Sweden	24/3/1994	8/8/1994
6	Korea (South)	20/5/1994 (**)	11/9/1994
7	United Kingdom	09/4/1994	15/12/1994
8	Singapore	DTA: 02/3/1994	09/9/1994
		Protocol: 12/9/2012 (*)	11/01/2013
9	India	DTA: 07/9/1994	2/2/1995
		Protocol: 03/9/2016 (*)	21/02/2017
10	Hungary	26/8/1994	30/6/1995
11	Poland	31/8/1994	28/01/1995
12	The Netherlands	24/01/1995	22/10/1995
13	China	17/5/1995	18/10/1996
14	Denmark	31/5/1995	24/4/1996
15	Norway	01/6/1995	14/4/1996
16	Japan	24/10/1995	31/12/1995
17	Germany	16/11/1995	27/12/1996
18	Romania	08/7/1995	24/4/1996
19	Malaysia	07/9/1995	13/8/1996
20	The Lao PDR	14/01/1996	30/9/1996

NO.	COUNTRIES	SIGNING DATES	DATES ENTERING INTO FORCE
21	Belgium	DTA: 28/02/1996	25/6/1999
		Protocol: 12/3/2012 (*)	Not in force yet
22	Luxembourg	04/3/1996	19/5/1998
23	Uzbekistan	28/3/1996	16/8/1996
24	Ukraine	08/4/1996	22/11/1996
25	Switzerland	06/5/1996	12/10/1997
26	Mongolia	09/5/1996	11/10/1996
27	Bulgaria	24/5/1996	4/10/1996
28	Italy	26/11/1996	20/02/1999
29	Belarus	24/4/1997	26/12/1997
30	Czech Republic	23/5/1997	3/2/1998
31	Canada	14/11/1997	16/12/1998
32	Indonesia	22/12/1997	10/2/1999
33	Taiwan	06/4/1998	6/5/1998
34	Algeria	06/12/1999	Not in force yet
35	Myanmar	12/5/2000	12/8/2003
36	Finland	21/11/2001	26/12/2002
37	Philippines	14/11/2001	29/9/2003
38	Iceland	03/4/2002	27/12/2002
39	Korea (North)	03/5/2002	12/8/2007
40	Cuba	29/10/2002	26/6/2003
41	Pakistan	25/3/2004	4/2/2005
42	Bangladesh	22/3/2004	19/8/2005
43	Spain	07/3/2005	22/12/2005
44	Seychelles	04/10/2005	7/7/2006
45	Sri Lanka	26/10/2005	28/9/2006

NO.	COUNTRIES	SIGNING DATES	DATES ENTERING INTO FORCE
46	Egypt	06/3/2006	Not in force yet
47	Brunei	16/8/2007	1/1/2009
48	(Republic of) Ireland	10/3/2008	1/1/2009
49	Oman	18/4/2008	1/1/2009
50	Austria	02/6/2008	1/1/2010
51	Slovakia	27/10/2008	29/7/2009
52	Venezuela	20/11/2008	26/5/2009
53	Morocco	24/11/2008	12/9/2012
54	Hong Kong	DTA: 16/12/2008	12/8/2009
		Protocol: 13/1/2014 (*)	08/01/2015
55	UAE	16/02/2009	12/4/2010
56	Qatar	08/3/2009	16/3/2011
57	Kuwait	10/3/2009	11/2/2011
58	Israel	04/8/2009	24/12/2009
59	Saudi Arabia	10/4/2010	1/2/2011
60	Tunisia	13/4/2010	6/3/2013
61	Mozambique	03/9/2010	7/3/2011
62	Kazakhstan	31/10/2011	18/6/2015
63	San Marino	14/02/2013	13/01/2016
64	Serbia	01/3/2013	18/10/2013
65	New Zealand	05/8/2013	5/5/2014
66	Palestine	06/11/2013	2/4/2014
67	Uruguay	09/12/2013	26/7/2016
68	Azerbaijan	19/5/2014	11/11/2014
69	Turkey	08/7/2014	9/6/2017
70	Iran	14/10/2014	26/6/2015

NO.	COUNTRIES	SIGNING DATES	DATES ENTERING INTO FORCE
71	Macedonia	15/10/2014	Not in force yet
72	Portugal	03/6/2015	9/11/2016
73	The United States	07/7/2015	Not in force yet
74	Estonia	26/9/2015	14/11/2016
75	Malta	15/7/2016	25/11/2016
76	Panama	30/8/2016	14/02/2017
77	Latvia	19/10/2017	6/8/2018
78	Cambodia	31/3/2018	20/02/2019
79	Macau	16/4/2018	3/10/2018
80	Croatia	27/7/2018	Not in force yet

Source: General Department of Taxation website.

Notes:
(*): Protocol refers to the protocol amending the respective Convention (DTA).
(**) Vietnam and South Korea signed the protocol amending the Convention (DTA) between Vietnam and Korea on 27 November 2019.

28. Our Team

At DFDL, our most valuable assets are our people. We are dedicated to hiring, developing and retaining experienced, highly skilled and efficient advisers.

Key people who comprise our Vietnam Team are:

JACK SHEEHAN
Partner and Head of Regional Tax Practice

Jack is a Partner and the Head of the Regional Tax Practice at the firm. He specializes in providing advice on the structuring of inbound and outbound investments, international tax planning, mergers and acquisitions and general tax advisory. Jack is listed a leading individual for tax in Vietnam by the Legal 500 for 2021, a leader for tax controversy by International Tax Review, and as highly regard by the World Tax Rankings 2021. Jack holds a Master's Degree in Tax Law from the University of Oxford and is a Fellow of the Association of Chartered Certified Accountants. Jack is regularly featured as a speaker and writer on international tax in Asia, including leading bodies such as the International Fiscal Association (IFA) and the International Bureau for Fiscal Documentation (IBFD).

jack.sheehan@dfdl.com

LAN HUA
Tax Director

Lan has longstanding professional experience in providing practical and innovative tax and business advice to a wide variety of international and local clients in Vietnam. This includes extensive consultations with regard to Vietnamese tax and financial regulations. Lan has also served as a taxation adviser on numerous engagements, with a core specialization in cross-border transactions and re-structuring across a diverse array of sectors. She has participated closely on tax reform in Vietnam, bringing her in-depth knowledge of local commercial and investment realities to help shape and refine the process. Prior to joining DFDL, Lan was a Tax Director at a leading Big 4 accounting firm in Vietnam.

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LIEU PHAN
Senior Tax Manager

Lieu is a Senior Tax Manager based in our Ho Chi Minh office. Her areas of expertise include providing advice on tax issues under Vietnam tax laws, tax structuring, tax due diligence, customs procedures, audits, health-checks and cross-border transactional tax advisory. She previously worked with big 4 firms in Vietnam. Lieu holds a Bachelor of Law and a Masters of Law from the University of Law, Ho Chi Minh City and a Bachelor of Arts from the University of Social Sciences & Humanities in Vietnam).

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HUYEN PHAM
Tax Adviser

Huyen is a tax adviser based in Hanoi. She has over ten years of experience in taxation and accounting, specializing in tax compliance advisory, tax due diligence, tax audits, eligibility criteria for incentives and exemptions under Vietnamese tax regulations and Double Taxation Agreements. Prior to joining DFDL in June 2011, Huyen worked with the Hanoi Department of Taxation, carrying out tax inspections, processing tax claims and refunds for tax payers, along with providing guidelines on the tax declaration process. She holds a Master's of Economics from the Faculty of Banking and Finance at the National Economics University of Vietnam.

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DFDL Regional Tax Practice Group

DFDL's tax team offers a unique combination of highly specialized lawyers and accountants dedicated to tax services across the region, from strategic planning to day-to-day operations, including tax advisory, tax compliance, transfer pricing and customs advisory. We are also regularly involved in the development of the tax environment of the markets in which we operate.

Our tax team is recognized for its expertise, creativity and excellent reputation across our jurisdictions and beyond, distinguishing DFDL as the preeminent tax law firm with an unmatched regional footprint. This equips us with unique capabilities and unrivalled local knowledge when working to advance our clients' business interests in the respective countries where we operate. We know the lay of the land and can expertly help our clients in navigating the obstacles, hurdles and pitfalls of various tax regulatory frameworks, assist them in forging durable longstanding relationships with key stakeholders and regulators along with providing the integrated tax and legal expertise necessary for them to succeed in emerging markets.

DFDL Tax Services

DFDL provides tax services across all industries and sectors. To better serve our clients' business needs, we have organized our expertise into service lines with experts in each jurisdiction of our firm.

Tax Advisory

- Corporate tax optimization;
- International tax structuring of shareholding, financing, licensing services and other arrangements;
- Tax due diligence;
- Tax health-check;
- Tax treaty relief;
- Merger & Acquisition and restructuring;
- Advance tax rulings; and
- Tax retainer services.

Transfer Pricing

- Contemporaneous TP documentation, with benchmarking;
- Drafting intercompany agreements;
- Transfer pricing and IP planning;
- Advisory support (substance; BEPS assessments; reporting); and
- Transfer pricing policy implementation.

Tax Disputes

- Tax controversy and tax audits;
- Tax and transfer pricing dispute resolution; and
- Tax litigation support.

Tax Compliance

- Preparation of tax filing and reports; and
- Tax compliance reviews.

About Us

DFDL was established in 1994 and built on a unique vision: to create an integrated legal, tax and investment advisory firm, with in-depth knowledge of the jurisdictions we work in, providing technical excellence across our core areas of expertise.

With a team of over 170 local and foreign lawyers and advisers in 11 offices in Asia and three collaborating firms in Cambodia, Indonesia and the Philippines, we provide personalized and cost-effective legal, tax and consulting services with particular expertise in:

- Banking, Finance and Technology
- Compliance and Investigations
- Corporate, Mergers and Acquisitions
- Employment and Labour
- Energy, Mining and Infrastructure
- Real Estate and Construction
- Taxation and Accounting

For more information, please email us at **Vietnam@dfdl.com** or visit **www.dfdl.com**.

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