Doing business in Vietnam 2022

Mazars in Vietnam

mazars

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Editorial

Huyen Nguyen
Managing Partner, Vietnam

Stepping into 2022, the whole global economy has swiftly recovered from the outbreak, and the progress of economic reconstruction is generally hopeful. Despite the macroeconomic environment's volatility due to the prolonged Covid-19 pandemic, Vietnam remains a perfect site for enterprises to establish or extend their operations of all shapes and sizes.

During the past few years, Vietnam has prominently incorporated itself into the global supply chain whilst becoming the destination for international companies as manufacturers relocate from China to Vietnam. Among its various positive attributes, Vietnam possesses an abundance of natural resources, a stable political environment, and a youthful, innovative and well-educated workforce. Recently, Vietnam has engaged in numerous bilateral and multilateral free trade agreements with a number of developing countries. These trade agreements, along with the ongoing global shift in the supply chain from China to Southeast Asia, especially Vietnam, are expected to further propel Vietnam's growth for the next decade. Nonetheless, as Vietnam remains a frontier market, starting a business or establishing a foothold in Vietnam is deemed to be intricate and challenging. Meanwhile, businesses in different industries are progressively adapting to the new normal, and some are even taking advantages of the post-crisis transformation to explore specialised business opportunities. To ensure an organised and successful business entry in Vietnam, business leaders and investors entering and operating in the country should refer to a trusted operational guidance, serving as a factsheet with regular business updates.

Our annual publication **Doing business in Vietnam** aims to provide the most relevant and updated information that investors and business leaders need to comprehend. It highlights various topics for enterprises to focus on, namely investment incentives, legal structures, tax, labour and foreign exchange control along with general information about the country's economy. With more than 28 years of experience in facilitating foreign investments in Vietnam, our diverse and multidisciplinary school of excellence is confident in our ability to deliver the most detailed and updated publication. We acknowledge the need for transparent and reliable information when doing business in a new market or even running an existing organisation.

Working through this guide enables you to select and identify your priorities to create a clear tailored plan for your business. **Doing Business in Vietnam 2022**, like its previous annual editions, is available in digital format and presented in English.

About Mazars in Vietnam

200+
Professionals

4 Partners*
**Partners who are fully integrated into Mazars global partnership*

#1
Accounting service

2
Offices

Mazars in Vietnam

Mazars in Vietnam was established in 1994, providing professional auditing, accounting, financial & business advisory, tax and legal services and has since grown to become one of the premier mid-tier firms in the country with two offices in Hanoi and Ho Chi Minh City.

As of January 2022, Mazars in Vietnam is ranked number one for the Accounting outsourcing services, and among the top Auditing firms in Vietnam.

With over 200 staff, our multi-disciplinary team of professionals comprises Chartered Accountants, Certified Public Auditors, Tax Lawyers, Masters in Accounting and Finance, Masters in Business and Administration and Cost Accountants. Our team has all the requisite business and technical skills, professional experience and knowledge base to deliver customised solutions to our clients. Because we possess these respective competencies, our professionals are capable of developing competitive advantages and sustainable values for a wide range of businesses. We view ourselves as advisors and business partners who help our clients succeed, not just doing menial bookkeeping or data entry work.

“Over the period, the business and political landscape is shifting globally and becoming more unpredictable while technology is changing everything we do. No matter what, Mazars remains resilient against the challenges, as well as honoring our commitments to staying with our clients along their journey. Operating as a single, united and integrated partnership with agility, empathy and consistent quality, we strive to truly understand what you need to deliver tailored values targeted to business specific requirements and help them move forward. Foremost, we believe sustainability and distinction shall construct extraordinary growth, that also defines the way we have been successfully running our firm while thrivingly investing in our people and society.”

Huyen Nguyen
Managing Partner, Mazars in Vietnam

Abbreviations

A
ASEAN - Association of Southeast Asian Nations

APA - Advanced Pricing Agreement

B
BEPS - Base Erosion and Profit Shifting

BCC - Business Co-operation Contract

C
CbC - Country by Country

CEPT - The Common Effective Preferential Tariff

CIT - Corporate income tax

CECA - Comprehensive Economic Cooperation Agreement

D
DICA - Direct Investment Capital Account(s)

DTA - Double Tax Agreement

DPPA - Direct Power Purchase Agreement

E
EBIT - Earnings before interest and taxes

EU - European Union

EPA - Economic Partnership Agreement

F
FCT -Foreign contractor tax

FIEs - Foreign Invested Enterprises

FTA -Free Trade Agreement

F.O.B price - Free on board price

G
GDP -Gross domestic product

GMT -Time Relative to Greenwich Mean Time

GSO -General Statistics Office

H
HCI -Human Capital Index

I
ITA - The International Air Transport Association

IT - Information Technology

J
JSC - Joint Stock Company

L
LURs - Land use rights

LNG - Liquefied natural gas

M
MFN - Most Favoured Nation

MOF - Ministry of Finance

MPI - Vietnam Ministry of Planning and Investment

MOIT - Ministry of Industry and Trade

O
ODA - Official Development Assistance

OECD -Organization for Economic Cooperation and Development

P
PDP - Power Development Plan

PIT - Personal income tax

S
SMEs - Small and medium enterprises

T
TP - Transfer pricing

V
VACPA - Vietnam Association of Certified Public Accountants

VAS - Vietnamese Accounting Standards

VAT - Value Added Tax

VCCI - Vietnam Chamber of Commerce and Industry

VN - Vietnam

VND - Vietnam Dong

W
WFOE - Wholly Foreign Owned Enterprise

WTO - World Trade Organization

General information

Welcome to Vietnam

Key country facts

Vietnam terms its economy as socialist-oriented market economy, which is described as a multi-sectoral market economy in which the state sector plays the leading role in directing economic development. In recent years, however, the ongoing equitization of the state-owned companies has reduced their contributions to the economy whereas the private sector is increasingly contributing more to the country's GDP.

General information

Key country facts

Government

- The Socialist Republic of Vietnam

Land

- **Apprx. 310,070 sq. km**
- **Provinces & Cities:** 63
- **Capital city:** Hanoi
- **Covered city:** Ho Chi Minh City

Population

- **Apprx. 98 million**
- Major ethnic group: Kinh (Viet), accounted for 85.7% of the ethnic composition

Religion

- Buddhism, Catholicism, Taoism and Confucianism

Labour force

- Aged from 15 and older: 50.7 million

Language

- Vietnamese as mother tounge

Income category

- Lower middle income

Currency

- Vietnamese dong (VND)

HCI Index*

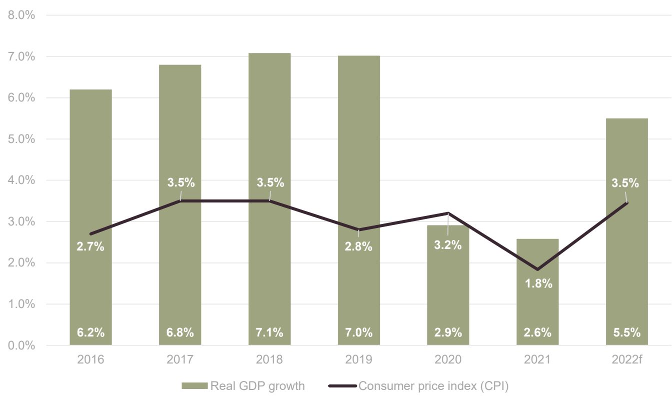
38th place out of 174 countries on the human capital index (HCI), and among Top 10 countries in ASEAN

**Figures as of 2020 from World Bank and Statista*

Given remarkable resilience against the Covid-19 pandemic, Vietnam's economy ended 2021 positively at 2.58%(GSO, 2021) growth in GDP (however, it is still lower than the previous year's GDP which stood at 2.91%). As well, Vietnam experienced six consecutive years of inflation below 4%(GSO, 2021) and reached 1.84% (Government news, 2021) in CPI growth, lowest since 2016.

Figure 1: Overview of GDP growth and CPI

Source: GSO, 2021



GDP by sectors

Source: GSO, 2021

14.0%

Agriculture, Forestry and Fishing

63.8%

Industry (including Construction)

22.2%

Services

Key economy facts

Foreign capitals play a key component of Vietnam's economic growth, while foreign trade increased to USD 668.5 billion in 2021, up 22.6% year-on-year (Hanoinews, 2022).

According to the report of the Ministry of Planning and Investment, for the first two months of 2022, there has been 20,300 newly-established enterprises, up 11.9% over the same period in 2021; 22,300 enterprises returned to operation, up 102.5%; however, 32,725 enterprises registered to suspend their business, up 51.3%; meanwhile, 8,909 enterprises waiting for dissolution procedures, up 6.3%; noticeably, 3,258 enterprises were dissolved, down 9.4%.

High proportion of enterprises applying for business suspension can be a reflection for the difficulties for the whole economy during the Covid-19 epidemic. However, the surge in the number of businesses newly established and returning to operation might send a positive signal for the new phase of gradual recovery in Vietnam in the future.

With the ongoing regulatory reform, new free trade agreements in effect and Government's efforts in pushing ahead international economic integration, Vietnam will remain a promising destination for investments and supply chain diversification.

31.15 USD billion

Total FDI capital inflows in 2021 (GSO, 2021), with investments in 3 key sectors including: Manufacturing and processing (USD 18.1 billion); Electricity production and distribution (USD 5.7 billion); and Real estate business (USD 2.6 billion).

34,527

Valid projects (GSO, 2021) with total registered capital of approximately **USD 408.1 billion**.

Key FDI counterparts in 2021 (GSO, 2021)

Singapore
TIC: USD 10.7b
VP: 2,836

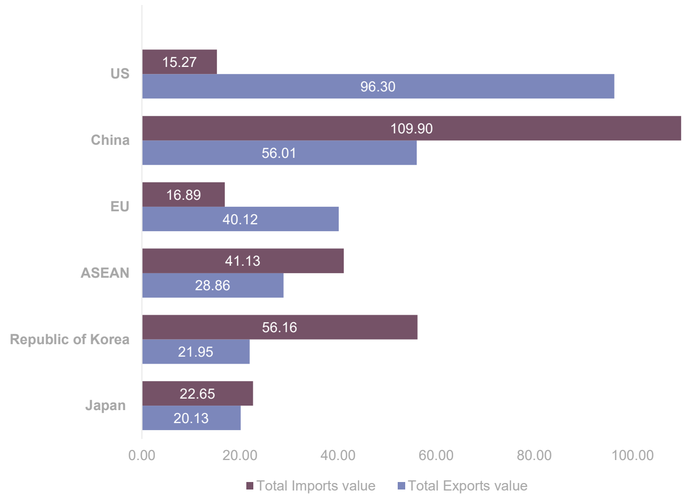
Republic of Korea
TIC: USD 5b
VP: 9,223

Japan
TIC: USD 3.9b
VP: 4,798

***TIC:** Total Investment Capital*
***VP:** Valid projects*

Figure 2: Key trade partners in 2021 - ranked by exports (Unit: USD billion)

Source: GSO, 2021



332.25 USD billion

Total Import value in 2021 (GSO, 2021), in which, top imports include: Electronic goods, computers and their parts (USD 75.9 billion); Machinery, instruments, accessory (USD 46.2 billion); and Phones all of kinds and their parts (USD 21.6 billion).

336.25 USD billion

Total Export value in 2021 (GSO, 2021), in which, top exports include: Phones all of kinds and their parts (USD 57.5 billion); Electronic goods, computers and their parts (USD 51 billion); and Machinery, instruments, accessory (USD 38.3 billion)

General information
An attractive Vietnam

Strategic location

- Vietnam represents the gate of the Asia Pacific region.
- The country's long coastline providing the country direct access to the world's main shipping routes.
- Its location next to China, currently the world's production factory, makes Vietnam an ideal alternative choice for investors seeking to diversify their supply chains from China.

Youthful labour force (Danso, 2021)

- Vietnam's median age is 33.3 with over 50.7 million people are in the workforce.
- The literacy rate of people aged 15-60 in Vietnam reached 97.85%, of which the age group 15-35 reached 99.3% (as of 2020).
- Vietnam has one of the highest Internet penetration levels in Southeast Asia.
- Its people are tech-savvy, pursue entrepreneurial path, and is generally open to new ideas.

Promising market with an emerging middle class

- An enormous market of around 98.7 million people, ranking #15 in the world, is an attractive pool for any types of business.
- An emerging middle class of 19.5 million in 2019, (accounting for 20.2% of the population), is expected to reach 23.2 million by 2030 with an annual growth rate of 10.1% (the highest in ASEAN) (Zingnews, 2021).

Government support

- Vietnam's government is very stable and committed to seeing the country grow by prioritizing infrastructure investments;
- Vietnam has continuously improved and adjusted its financial incentives and institutions to attract and better manage foreign investment resources.
- Remarkable regulatory reform, switching to "E-Government" with the implementation of administrative procedures and online public services.

Robust global economic integration

- ASEAN, APEC and WTO are among over 70 international and economic organisations/ communities that Vietnam is a member of.
- The government has pursued strategies to join a number of Free Trade Agreements ("FTAs"). Until November 2021, Vietnam has signed 15 FTAs and in the final stages of negotiations towards the signing of a FTA with Israel in 2022 (MOIT, 2021).
- Vietnam has established diplomatic relations with 189 countries and bilateral strategic agreements with the majority of the world's leading economies.

General information
An attractive Vietnam

Stable economic growth

- Vietnam's economy ended 2021 positively at 2.58% growth in GDP, and this is expected to reach over 6.5% in 2022 (Lao Dong news, 2021).
- Quick economic recovery over the past year of uncertainty and global recessions.
- The inflation rate remains stable and under control.

Infrastructure development

- Significant expansion and improvement in transportation infrastructure, especially highways, airports and seaports. Two notable projects are under construction namely the metro line in Ho Chi Minh City and Long Thanh Airport (Dong Nai).
- Over 397 industrial zones were established across the country, especially 18 coastal economic zones. As well, there are 3 high-tech parks in 3 major cities Hanoi, Ho Chi Minh City and Da Nang with high-skilled labours and trade-friendly convenience (MPI, 2021).

Bilateral and Regional FTAs & CECA

Signed and in effect

1993 AFTA	Vietnam participated in ASEAN Free Trade Area
2003 ACFTA	ASEAN – China
2007 AKFTA	ASEAN – South Korea
2008 AJCEP	ASEAN - Japan (FTA)
2009 VJEPA	Vietnam - Japan (EPA)
2010 AIFTA	ASEAN – India (FTA)
AANZFTA	ASEAN - Australia/New Zealand (FTA)
2014 VCFTA	Vietnam - Chile (FTA)
2015 VKFTA	Vietnam - South Korea (FTA)
2016 VN – EAEU FTA	Vietnam - Russia, Belarus, Amenia, Kazakhstan, Kyrgyzstan
2019 CPTPP	CPTPP (previously known as "**TPP11**") (FTA)
AHKFTA	ASEAN - Hong Kong (FTA)
2020 EVFTA	Vietnam - EU (27 members)
2021 UKVFTA	Vietnam - United Kingdom
2022 RCEP	ASEAN - China, South Korea, Japan, Australia, New Zealand

Source: MPI

15
Agreements signed and in effect

02
Agreements are under negotiation

80
Countries are under Double Taxation Avoidance agreements.

Bilateral and Regional FTAs & CECA

Under negotiation

EFTA – Vietnam

Vietnam and EFTA (including 4 countries Switzerland, Norway, Iceland, Liechtenstein) started negotiations on a free trade agreement since May 2012. Currently, this FTA is still under negotiation.

Israel – Vietnam

Vietnam and Israel began negotiations on signing a FTA in December 2015. Currently, this FTA is still under the final stage of negotiation which is expected to complete in 2022 (Lao Dong news, 2021).

Note:

FTA(s) - Free Trade Agreement(s)

EPA - Economic Partnership Agreement

CECA - Comprehensive Economic Cooperation Agreement

CEP - Comprehensive Economic Partnership

CPTPP - Comprehensive and Progressive Agreement for Trans-Pacific Partnership

RCEP - Regional Comprehensive Economic Partnership

General information
Bilateral and Regional FTAs & CECA

Since the EVFTA officially took effect in 2020, Vietnam's total imports from the EU reached USD 17.9 billion in 2021 (MOIT, 2021), resulting in a growth of 16.5% YoY. This growth was reported in the imports of computers, electronic products and components. In general, there were no sudden changes for other imports except the increase in pharmaceuticals and decrease in machinery and equipment due to the impact of the pandemic. In return, Vietnam's total exports to the EU reached USD 45.8 billion (MOIT, 2021), increased by 14.2% YoY. Particularly, the key exports of Vietnam to the EU were phones and components, footwear and textiles. Consequently, the EVFTA has created a huge boost for Vietnam's exports, enabling the diversification of markets and products. For instance, exports which are strengths of Vietnam such as textiles and footwear have taken advantage of the tariff incentives, thereby contributing to the increased competitiveness of Vietnam's exports when coming to the EU.

Not only achieving the success of two-way trade, but Vietnam also becomes a more attractive destination for foreign direct investment from the EU. With commitments to transparent governance and an open environment for businesses and investors of the two parties, the EVFTA provided Vietnam with access to quality investment and advanced technology of the EU. Accordingly, in 2021, the European businesses have invested a total number of 2,515 projects in Vietnam which make up USD 25.58 billion, accounting for over 7.5% of the total registered capital (GSO, 2021).

Despite starting in such a difficult context amid the pandemic, the two-way trade between Vietnam and the UK still reached USD 6.6 billion, increased by 17.2% compared to 2020 (VCCI (WTO), 2021). In addition, Vietnam's exports to the UK increased by 16.4% and the UK's exports to Vietnam increased by 24% YoY.

According to the RCEP, Vietnam and other members could have eliminated tariffs on at least 64% of tariff lines since the agreement took effect in January 2022 (Nguyen, 2021). By the end of a 20-year roadmap, Vietnam will eliminate nearly 90% of tariff lines for other members while get an elimination of 92% of tariff lines in return. Particularly, seafood exports to the RCEP market currently account for roughly 52% of Vietnam's total seafood export turnover.

Since the EVFTA officially took effect in 2020, [...] Vietnam's total exports to the EU reached USD 45.8 billion, increased by 14.2% YoY.

The economy of Vietnam

Exchange controls
Development trends

The economy of Vietnam
Exchange controls

Throughout the country, only USD and other certain currencies are accepted for transactions with Credit Institutions and other transactions in big cities and provinces as permitted by the Prime Minister. In general, the inflow of foreign currency into Vietnam is welcome with minimum restrictions while the transfer of foreign currency abroad has also been significantly liberalised. Foreign investors and foreigners working in Vietnam are permitted to transfer their earnings abroad after completing all of their financial liabilities to the Vietnamese Government. However, on leaving Vietnam, individuals are not allowed to take more than USD 5,000 or equivalent in other currencies in cash (including debit notes and travellers' cheques) without declaration to the Vietnamese Customs and permission from the State Bank of Vietnam or another eligible bank.

Up to now, the Vietnamese Government has issued a range of regulations regarding foreign exchange management in Vietnam which investors are required to follow when doing business in Vietnam. Accordingly, local and foreign investors shall be allowed to contribute the amounts of capital in local and foreign currencies as specified in their investment registration certificates. The contributed capital shall be carried out through transfer to direct investment capital accounts. The transfer of capital, profits and lawful incomes abroad by foreign investors shall also be carried out through the direct investment capital accounts.

The economy of Vietnam
Development trends

In recent years the Private sector has become far more influential. The Vietnam Stock Exchange came into being in 2000 and the Government's policy of privatising State-Owned Enterprises made room for foreign investors to invest in the Vietnamese market. Vietnam has become a strong base for manufacturing and IT related services with reasonable employment costs. However, the weak copyright laws are thought to deter "high added value" industries from bringing too much intellectual property into Vietnam for fear of losing it to clone competitors. Thus, at present there is an abundance of "low–tech" industry and the Government would like to be able to attract more "higher added value" businesses.

Investment incentives and guarantees

Key sectors currently targeted for investment incentives
Basic investment guarantee commitments

Key sectors currently targeted for investment incentives

- High-tech activities, high-tech ancillary products; research, development and production of the products derived from scientific and technological results in accordance with regulations of laws on science and technology
- Production of new materials, new energy, clean energy, renewable energy; production of products with at least 30% value added; energy-saving products
- Production of electronic products, key mechanical products, agricultural machinery, automobiles, automotive parts; shipbuilding
- Production of products in the List of prioritised supporting industrial products
- Production of IT products, software products, digital contents
- Cultivation, processing of agricultural, forest, fishery products; forest planting and protection; salt production; fishing and fishing logistics services; production of plant varieties, animal breeds, and biotechnology products
- Waste collection, treatment, recycling or re-use
- Investment in development, operation and management of infrastructure works; development of public passenger transportation in urban areas
- Pre-school education, general education, vocational education and higher education
- Medical examination and treatment; production of drugs, medicinal ingredients, drug storage; scientific research on dosage technology and biotechnology for producing new drugs; production of medical equipment
- Investment in physical training and sport facilities for the people with disabilities or professional athletes; protection and promotion of the value of cultural heritage
- Investment in geriatric centres, psychiatric centres, treatment centres for agent orange patients; nursing homes for the elderly, people with disabilities, orphans, street children
- People's credit funds, microfinance institutions
- Production of goods, provision of services that create or participate in the value chains or industrial clusters.

Investment incentives and guarantees

Key sectors currently targeted for investment incentives

The Government also provides some basic investment guarantee commitments as follows:

- Lawful assets of the investors shall be neither nationalised nor confiscated by administrative measures.
- In cases where their assets are purchased or requisitioned by the State of Vietnam for the reasons of national defence, security or national interest, state of emergency or in response to natural disaster(s), the investors shall be reimbursed or compensated in accordance with the regulations of laws.
- The investors shall not be required to prioritise purchasing, using domestic goods/services; or purchasing, using goods/services provided by the domestic producers/service providers; achieving a certain export target; limiting the quantity, value, types of goods/services exported or domestically produced/provided; importing goods in a quantity/value of goods corresponding to the quantity/value of exported goods; or balancing foreign currencies earned from export to meet import demands; achieving a certain localisation rate for domestically produced goods and/or a certain level/value of domestic research and development; supplying goods/provide services at a particular location in Vietnam or oversea; and/or having the headquarter situated at a location requested by a competent authority.
- The Prime Minister shall consider and make decision on the forms and contents of guarantee by the State of Vietnam for the investment projects subject to the "in-principle" approval of the National Assembly, the Prime Minister and other important infrastructure development investment projects proposed by relevant governmental bodies.
- After all financial obligations towards the State of Vietnam are fulfilled, the foreign investors are permissible to transfer abroad investment capital and investment liquidation proceeds; incomes from business investment activities; money and other assets under their lawful ownership.

Upon the promulgation of new legislation(s) which provides more favourable investment incentives, the investors shall be entitled to such new incentives for the remaining incentive enjoyment period of their investment projects, except for special investment incentives for the investment projects granted certificates or approvals prior to the effectiveness of the Law on Investment 2020 (i.e., 01 January 2021). Otherwise, if the said new legislation(s) provides less favourable investment incentives, the investors shall continue to enjoy the current incentives, with a few exceptions.

Bright destination for renewable energy development

On 8 October 2021, the Ministry of Industry and Trade of Vietnam (MOIT) has submitted report no. 6277/Ttr-BCT to Prime Minister for the draft proposal for the national power development plan for the period of 2021-2030, with a vision to 2045 (Draft PDP8) (MOIT, 2021).

The Power Development Plan 8 ("Draft PDP8") aims at providing electricity for household and commercial use but moving towards importing power in the future, with a vision of 5,742MW imported until 2030 and 11,042MW until 2045.

03 Core values

Adequate electricity for domestic demand

Adequate development and investment for power generation/source and power grids

- Provide sufficiently to all regions
- Use natural/primary resources efficiently
- Cease buiding cross regions power transmission line for period 2021-2030; limit maximum building new power transmission lines for period 2031-2045

Investment and development in hydro power, renewable power and new powers

- **New power:** wind, solar, biomass, power generated from incineration, etc.
- Reduce coal-fired power
- Develop LNGs efficiently
- Increase import power on the basis of agreements and prior MoUs.

The Power Development Plan 8 ("Draft PDP8") aims at providing electricity for household and commercial use but moving towards importing power in the future, with a vision of 5,742MW imported until 2030 and 11,042MW until 2045.

The electricity elasticity coefficient will reach:

(Percentage change in energy consumption to achieve 1% change in GDP)

2021 - 2025	2026 - 2030	2031 - 2035	2036 - 2040	2041 - 2045
1.31 - 1.34 times	**1.24 - 1.25** times	**0.97 - 1.03** times	**0.64 - 0.82** times	**0.47 - 0.54** times

PDP8 aims at ensuring adequate supply of electricity demand in the country, meeting the socio-economic development goals of the whole country with an average GDP growth rate of about **6.6%/year** during the period 2021 - 2030 and about **5.7%/year** in the period 2031 - 2045.

The plan's goal is to increase the use of renewable energy (RE) sources from 32.2% in 2030 to 37.5% in 2045 and stabilise hydropower and its storage due to the exhaustion of resources.

The **total investment capital** for the **2021 - 2030** period will be about **USD 131.79 billion**. The plan will thusly require USD 117.82 billion for power generation/source/plants and USD 13.97 billion for power grids.

Figure 3: Total investment capital (2021 - 2045)

(Unit: USD billion)

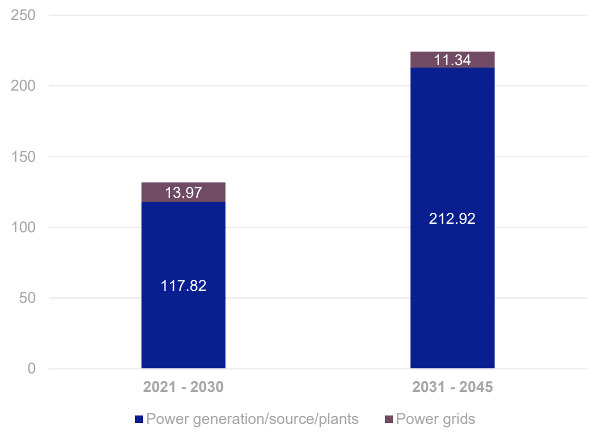
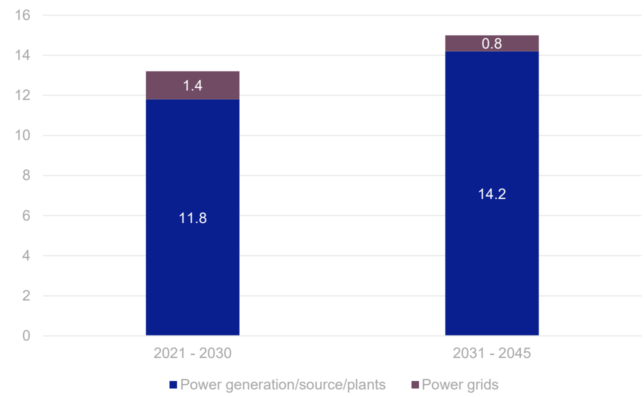


Figure 4: Average annual investment capital (2021 - 2045)

(Unit: USD billion)



Source: Draft PDP8, EVN, 2021

Power Development Plan (Draft PDP8)

Comparison of PDP8 to Amended PDP7

Source: Draft PDP8, MOIT, 2021

Scale of power sources in the PDP 8 and the amended PDP 7					
Source	2020	Draft PDP8		Amended PDP7 (approved in 2016)	
		2025	2030	2025	2030
Coal-fired thermal power	20,431	29,679	39,699	47,877	55,477
Gas-to-power and oil/diesel-fired thermal power	9,030	15,305	37,501	15,016	19,016
Hydropower + pumped-storage hydropower	20,685	25,529	28,513	24,611	27,871
Wind power	630	12,070	21,338	2,030	5,990
Solar power	16,640	18,040	21,390	3,935	11,765
Biomass and other renewable power	570	1,170	1,520	1,844	3,444
Power import	1,272	4,728	5,742	1,436	1,508
Nuclear power	-	-	-	-	4,600
Total capacity	**69,258**	**106,053**	**155,722**	**96,749**	**129,671**
Pmax (MW)	**38,706**	**61,357**	**93,343**	**63,471**	**90,651**

The plan seeks reduction of coal-fired power and implementation of key changes relating to wind power and other renewable powers by accelerating and facilitating offshore wind projects in central and southern regions (Binh Dinh, Ninh Thuan, Binh Thuan, etc.).

Wind power has significant room for growth as a scalable alternative to the expansion of thermal coal with Vietnam's broad coastal areas. The ratio of renewable power sources (including large-scale hydropower) will ensure the achievement of the goals set out under the Politburo's Resolution and the Vietnam renewable power development strategy for 2031-2045 vision and Vietnam's commitment at the UN Climate Change Conference (COP26).

Pilot scheme of Direct Power Purchase Agreement (DPPA)

In May 2022, MOIT collected comments from the people with the draft Decision of the Prime Minister stipulating the pilot of DPPA between RE generators and large electricity users (VIB Online, 2022). Accordingly, the total capacity of power plants participating in the pilot program of DPPA must not exceed 1,000 MW.

Based on the performance of the pilot DPPA plants within one year from the period where generators' units are put into commercial operation, MOIT would assess the market, technical, financial, and legal aspects, propose contents to improve the DPPA mechanism and report to the government for consideration and decision on the formal application of this mechanism.

Business organisations available to foreigner

Foreign investment enterprises
Other market entry options
Termination of enterprises

Business organisations available to foreigner
Foreign investment enterprises

Establishment of Foreign Invested Enterprises (FIEs)

Limitations of foreign ownership

The foreign investors are allowed to own 100% of the share capital of a company in Vietnam, except for circumstances where the foreign ownership ratio is limited under the bilateral or multilateral agreement(s) to which Vietnam is a signatory (e.g. Schedule of Specific Commitments in Services upon the accession to the WTO of Vietnam) and the Vietnamese specialised local laws and regulations thereof.

Investment procedures

The establishment of a FIE involves the procedures to obtain an Investment **Registration Certificate** and an **Enterprise Registration Certificate.**

However, depending on the investment sectors and scale, there are some certain investment projects which must each undergo a procedure to obtain an "in-principal" approval from the competent State authority (i.e. the National Assembly, the Prime Minister or the provincial People's Committees) prior to licensing to guarantee the national interest.

Types of FIE available

<table>
<tr><th rowspan="2"></th><th rowspan="2">Partnership</th><th colspan="2">Limited Liability Company</th><th rowspan="2">Joint-stock Company</th></tr>
<tr><th>Single-member</th><th>Multi-members</th></tr>
<tr><td></td><td>(2)</td><td>(3)</td><td>(4)</td><td>(5)</td></tr>
<tr><td>Legal status</td><td colspan="4">Having legal status</td></tr>
<tr><td rowspan="2">Number of owners/ members/ shareholders</td><td>Minimum – 2</td><td rowspan="2">Only 1</td><td>Minimum – 2</td><td>Minimum – 3</td></tr>
<tr><td>Maximum – unlimited</td><td>Maximum – 50</td><td>Maximum – unlimited</td></tr>
<tr><td>Perpetual succession</td><td colspan="4">Yes</td></tr>
</table>

Business organisations available to foreigner
Foreign investment enterprises

Types of FIE available

	Partnership	Limited Liability Company		Joint-stock Company
		Single-member	Multi-members	
	(2)	(3)	(4)	(5)
Liability of owners/ shareholders	- Partners (who must be individuals) have unlimited liabilities. - Capital contributors are liable for the debts of the company within their contributed capital.	Owner shall be liable for the debts and other property obligations of the company wihin the charter capital.	Members shall be liable for the debts and other property obligations of the company within their contributed capital.	Shareholders shall be liable for the debts and other property obligations of the company only within the contributed capital.
Issuance of securities	Unable to issue any types of securities	Unable to issue shares	Unable to issue shares	Able to issue any types of securities
Capital requirement	There is no statutory minimum capital contribution threshold in most of the investment fields, but for some conditional sectors and industries such as banking, petroleum, etc., the foreign investor(s) must guarantee their capital contribution at least equal to a certain level, which is often called as legal capital.			
Time-limit for capital contribution	As committed by the partners and capital contributors	90 days from the date of issuance of the Enterprise Registration Certificate, excluding the time required for transportation, importation and implementation of relevant administrative procedures for transferring the ownership of assets in case of making capital contribution in kind to the company.		90 days from the date of issuance of the Enterprise Registration Certificate, unless a shorter time-limit for making capital contribution is stipulated in the Charter or agreed in the shares purchase agreement(s). In case of making capital contribution in kind, the time-limit for doing so shall exclude the time required for transportation, importation and implementation of relevant administrative procedures for transferring the ownership of assets to the company.

Business organisations available to foreigner

Foreign investment enterprises

Types of FIE available

<table>
<tr><th rowspan="2"></th><th rowspan="2">Partnership</th><th colspan="2">Limited Liability Company</th><th rowspan="2">Joint-stock Company</th></tr>
<tr><th>Single-member</th><th>Multi-members</th></tr>
<tr><td></td><td>(2)</td><td>(3)</td><td>(4)</td><td>(5)</td></tr>
<tr><td>Corporate governance</td><td>- Members' Council and Chairman of the Members' Council; and
- General Director/ Director</td><td>- Members' Council and Chairman of the Members' Council; OR the Chairman of the company if the company's owner being an organization only appoints 01 authorised representative or the company's owner is an individual; and
- General Director/Director</td><td>- Members' Council and Chairman of the Members' Council; and
- General Director/ Director</td><td>- General Shareholder Meeting, Board of Directors, Inspection Committee and General Director/Director. In case where the company has less than 11 shareholders and the shareholders being organizations own less than 50% of total shares, the Inspection Committee is not amongst the required components in the organizational and management structure of the company; OR
- General Shareholder Meeting, Board of Directors and General Director/Director. In this case, there shall be at least 20% of the members of the Board of Directors being independent members and the organization of an auditing committee under the Board of Directors is a must.</td></tr>
<tr><td>Legal representative</td><td colspan="4">- In respect of Partnership, all partners shall be the legal representatives of the company.
- In respect of Limited Liability Company and Joint-stock Company, the company is permissible to have 01 or more legal representatives. If there are more than 01 legal representative, the Charter shall specify the rights and obligations of each of them. Otherwise, all legal representatives shall be jointly liable for any damages caused to the company in accordance with the civil laws and relevant regulations of laws.
- There must be at least 01 legal representative of the company residing in Vietnam. If the company only has 01 legal representative, upon his/her departure from Vietnam, the said legal representative must authorise another person residing in Vietnam in writing to exercise rights and perform obligations of the legal representative; in such the case, the legal representative shall still be responsible for the performance of the authorised person.</td></tr>
</table>

Business organisations available to foreigner
Other market entry options

Business Co-operation Contract ("BCC")

A BCC means a form of investment where the investors enter into a contract in order to co-operate in business, share profits and/or products without the establishment of a legal entity.

Capital contribution, Purchase of shares or capital contribution, Merger and Acquisition

The investors are allowed to contribute capital to, purchase shares or capital contribution in, merge with and acquire enterprises in Vietnam. The maximum ratio of the foreign investors' capital therein is regulated in a number of sectors and industries.

Branch

The establishment of a Branch must be made in accordance with the bilateral or multilateral agreement(s) to which Vietnam is a signatory as well as the Vietnamese laws. For normal foreign traders, their Branch is permitted to carry out the activities as stipulated on its Branch Establishment License.

To set up a Branch in Vietnam, amongst other conditions, the foreign traders must have been operating for at least 05 years from the date of incorporation/registration and the Business Registration Certificate or equivalent document must be valid for at least 01 more year as from the date of submission of the application.

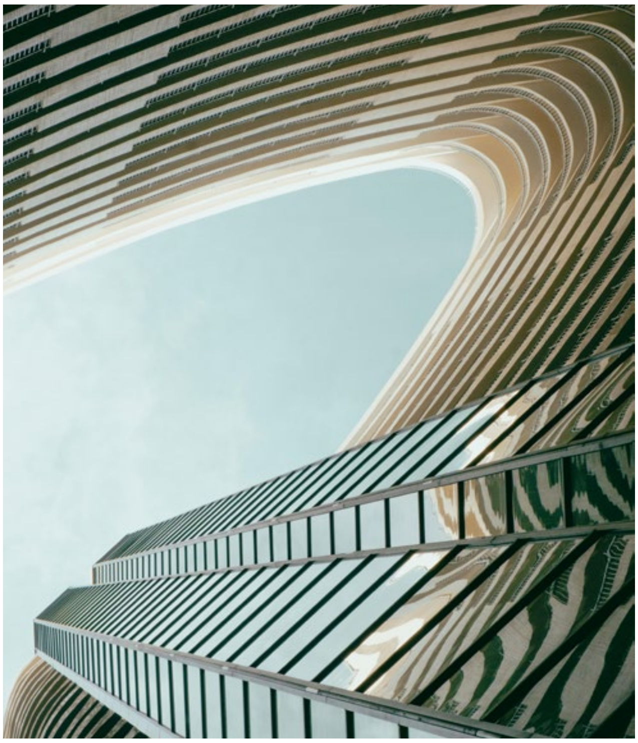
Foreign Contractor/Cross-border supplies

The foreign companies can perform a number of cross-border supplies in accordance with the bilateral or multilateral agreement(s) to which Vietnam is a signatory as well as the Vietnamese laws. For instance, for construction and related activities, the foreign contractors are permissible to carry out business by directly entering into construction contracts with the Vietnamese owners or main contractors of the project and earning income therefrom. However, in order to do so, such foreign contractors must apply for Construction Activity Permit and set up what is known as a Project Execution Office.

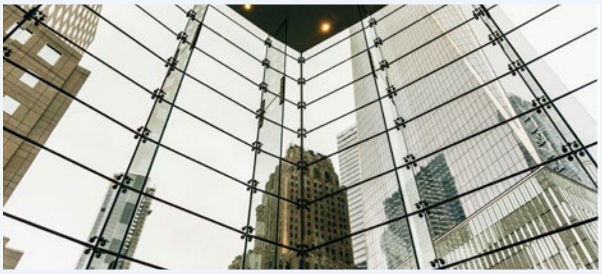
Representative Office

The establishment of a Representative Office must be made in accordance with the bilateral or multilateral agreement(s) to which Vietnam is a signatory as well as the Vietnamese laws. The Representative Office permits the foreign traders to conduct the activities of liaison office, market research, promotion of their business investment opportunities, which are all purely reflecting the nature of business development, without generating any type of income or profit.

In order to set up a Representative Office, the foreign traders must satisfy certain conditions including, amongst others, such foreign traders must have been operating for at least 01 year as from the date of incorporation/registration and the Business Registration Certificate or equivalent document must be in effect for at least 01 year as from the date of submission of the application.



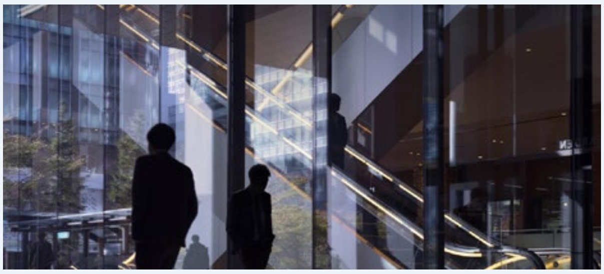
Business organisations available to foreigner
Termination of enterprises



Dissolution

An enterprise shall be dissolved in the following cases only after it has paid all debts and other property obligations as well as not involved in any dispute at a court or arbitral tribunal:

- The operational term as stipulated in the Charter is expired without any decision on extension thereof;
- As decided by the Members' Council (in respect of Partnership), the Owner or the Members' Council (in respect of Limited Liability Company), the General Shareholder Meeting (in respect of Joint-stock Company);
- The enterprise fails to maintain the minimum number of members/shareholders as ascribed by the Law on Enterprises for a period of 06 consecutive months without carrying out the procedures for conversion of the enterprise form; and
- The Enterprise Registration Certificate is revoked.



Bankruptcy

An enterprise is considered as being insolvent if such enterprise has failed to pay a due debt for 03 months as from its due date.

Generally, the bankruptcy procedures include:

i. Filing of the request for initiation of bankruptcy process with the court;

ii. Commencement of bankruptcy proceedings, unless the request is withdrawn;

iii. Appointment of asset management officer/firm;

iv. Making list of creditors;

v. Creditors' meeting;

vi. Rehabilitation or bankruptcy and liquidation of assets. Simplified procedures shall be applied in some certain cases as stipulated by the regulations of laws.

Taxation

This chapter presents an overview of the Vietnamese tax system, Vietnam's major taxes as well as the tax treaties between Vietnam and other countries which may have a significant impact on the activities of a foreign investor in Vietnam.

Taxation
Overview

Vietnam applies a common set of tax regulations on a nationwide basis which over recent years has become equal between local and foreign enterprises. Tax regulations include laws/ordinances/ resolutions from the highest level and sub-law guidance such as decrees, decisions, circulars and numerous official letters.

In recent years, Vietnam has been applying various administrative reforms and showing attempt to better fit with the era of digital technologies. Among a number of tax regulations, the Tax Administration Law 2019 which takes effect from 01 July 2020 is a good example. The Law and its guiding Decree/Circular introduces tax administration regimes for e-commerce activities/activities via digital platform, incorporates tax management on the internet platform (e-tax) and officially sets guidelines for the new system of e-invoices.

Taxation
License fee

License fee

License fee (previously known as license tax) is imposed on enterprises, representative offices, business individuals, and other business types doing business in Vietnam on an annual basis. The fee amount depends on the registered capital of the taxpayers, or fixed amount in certain cases.

The license fee shall be exempted in the first calendar year for newly established enterprises and some other types of business establishment. During the exemption period, if the mentioned enterprises establish a new branch, representative office or business location, such new set-up shall be also exempted from the license fee for the same period.

Taxation

Corporate Income Tax ("CIT")

CIT is imposed on the income (Profit) of enterprises, or any kind of organisations established under Vietnamese laws doing business in Vietnam.

CIT declaration and payment are required on:

i. an annual basis;

ii. upon incurrence (for some special cases); and

iii. upon division, M&A, conversion, dissolution or shut down of the company.

Quarterly CIT declaration is no longer required (however provisional CIT payment remains applicable on a quarterly basis).

Tax rates

The standard CIT rate is 20%. Taxation for oil and gas businesses is applied within the range from 32% to 50%. Natural resources industry may have a higher tax rate (i.e. 40% or 50%).

Tax incentives

CIT incentives are available, including a preferential tax rate and tax holidays which are granted to investment projects based on their business activities or their location. Some additional CIT incentives are also available for enterprises operating in manufacturing, construction and transportation with a high ratio of female employees or ethnic-minority employees.

Taxable Income (Profit)

Taxable income is defined as the difference between total taxable revenue and total deductible expenses of the enterprise during the tax year.

Taxable revenue includes all income from sales, provision of services and other incidental income accruing to the enterprise from any business activities, irrespective of whether the revenue was derived in Vietnam or overseas and has been collected or not.

Generally, expenses are tax deductible on the basis that they are business related and supported by legitimate invoices/documents and are not specifically identified as being non-deductible. For the purchase of goods or services valued from VND 20 million (VAT inclusive) and above, evidence of non-cash payment is also required.

Losses Carried Forward

An enterprise is allowed to carry forward fully and continuously the operating loss of a financial year to offset against future taxable income for a period of up to five years counting from the year after the year of loss.

Value Added Tax ("VAT")

Generally, goods and services used for production, business and consumption in Vietnam are subject to VAT. Different VAT rates (0%, 5% and 10%) or VAT exemptions are applied to different kinds of goods and services.

VAT exemption	Some goods and services are exempted from VAT such as medical or veterinary exempt services, certain kinds of insurance services, certain financial operations.
VAT 0%	Mainly applied to exported goods/services.
VAT 5%	Generally applied to areas of the economy concerned with the provision of essential goods and services.
VAT 10% (*)	This is the "standard" rate.

(*) For the period from 01 February 2022 to 31 December 2022, except for some groups of goods and services such as telecommunications, information technology, financial activities, banking, securities, insurance, real estate trading, metals, goods and services subject to Special Sales Tax, etc., the other goods and services are subject to the reduced VAT rate of 8% thanks to incentive program of the Government.

There are two methods of VAT filing:

Direct method

Where VAT would be imposed as a percentage directly on revenue (for a number of cases) or on added value of the Company.

Credit method

(also known as Deduction method)

Where the taxpayer shall have its input VAT on expenses and output VAT on sales of goods and services, and only the exceeding amount of the output VAT over the creditable input VAT shall be paid to the Tax Department.

Taxation
Invoices

> *"[...] From 01 July 2022, enterprises are compulsorily required to switch from using paper invoices and electronic invoices under old system to the new electronic invoices system..."*

For the period up to 01 July 2022: An enterprise can use pre-printed invoices, self-printed invoices or electronic invoices. The tax invoice template must contain stipulated items and be notified to the local tax authorities before coming into use.

As an attempt to minimise tax evasion and reinforce tax administration, from 01 July 2022, enterprises are compulsorily required to switch from using paper invoices and electronic invoices under the old system to the new electronic invoices system. For the implementation of such transformation, MOF deploys the new e-invoice system through Phase 1 already started from November 2021 (in 6 big provinces and cities, including: Hanoi, Ho Chi Minh City, Quang Ninh, Hai Phong, Phu Tho and Binh Dinh); and Phase 2 commenced in April 2022 (for the remaining 57 provinces and cities).

Taxation

Transfer pricing

Vietnam released Transfer Pricing regulations from 2005 which provide the primary regulatory framework for the determination and audit of Transfer Pricing activities in Vietnam. It has been some years already that Transfer pricing ("TP") is a top priority for both companies and tax authorities.

The principle behind transfer pricing is transactions between related parties must be made on an arm's length basis. Failure to comply with the arm's length principle implies an exposure to a reassessment of prices or profits for tax purposes which may be accompanied by penalties and interest charges (to some extent, this literally implies that the tax authorities may set transfer prices for the company if there is no supporting transfer pricing documentation). The adjustments entail wider consequences in terms of an altered tax profile and possible adverse publicity.

In terms of required documents, an enterprise which has related party transactions must submit a set of disclosure forms of the related party transactions during the year (to be lodged annually to the tax authority together with a year-end CIT return) and preparation of Transfer Pricing Documentation as evidence of the arm's length principle.

From 2017, for adopting the new guidelines of the Organization for Economic Cooperation and Development's Action Plan on Base Erosion and Profit Shifting ("BEPS"), Vietnam released new TP regulations, i.e., Decree 20/2017/ND-CP, Decree 68/2020/ND-CP and Decree 13/2020/ND-CP. In which, Decree 132/2020/ND-CP is the latest legal document in effective providing primary regulatory framework for transfer pricing practice in Vietnam. According to this, a TP Documentation to be presented to the Vietnamese tax authorities must not only cover the local reports of the Vietnamese taxpayer, but may also require the Global Master Files and Country by Country ("CbC") report for the whole group.

For certainty on the methodology of setting up the arm's length range, enterprises might consider applying for the Advanced Pricing Agreement ("APA"), which is proved a vital tax planning tool. Under APA, taxpayers agree with tax authorities on the pricing of related party transactions in advance for a maximum effective period of three years, but not exceeding the actual number of years that taxpayers have operated and paid CIT in Vietnam.

Personal Income Tax ("PIT")

PIT is applied to taxable income received by individuals. Therefore, as a general rule, PIT is a liability of individuals, however the PIT regulations encompass the concept of tax withholding at source, in which the income- payer is required to temporarily withhold tax prior to paying incomes to its employees and remit the withheld tax to the tax authority.

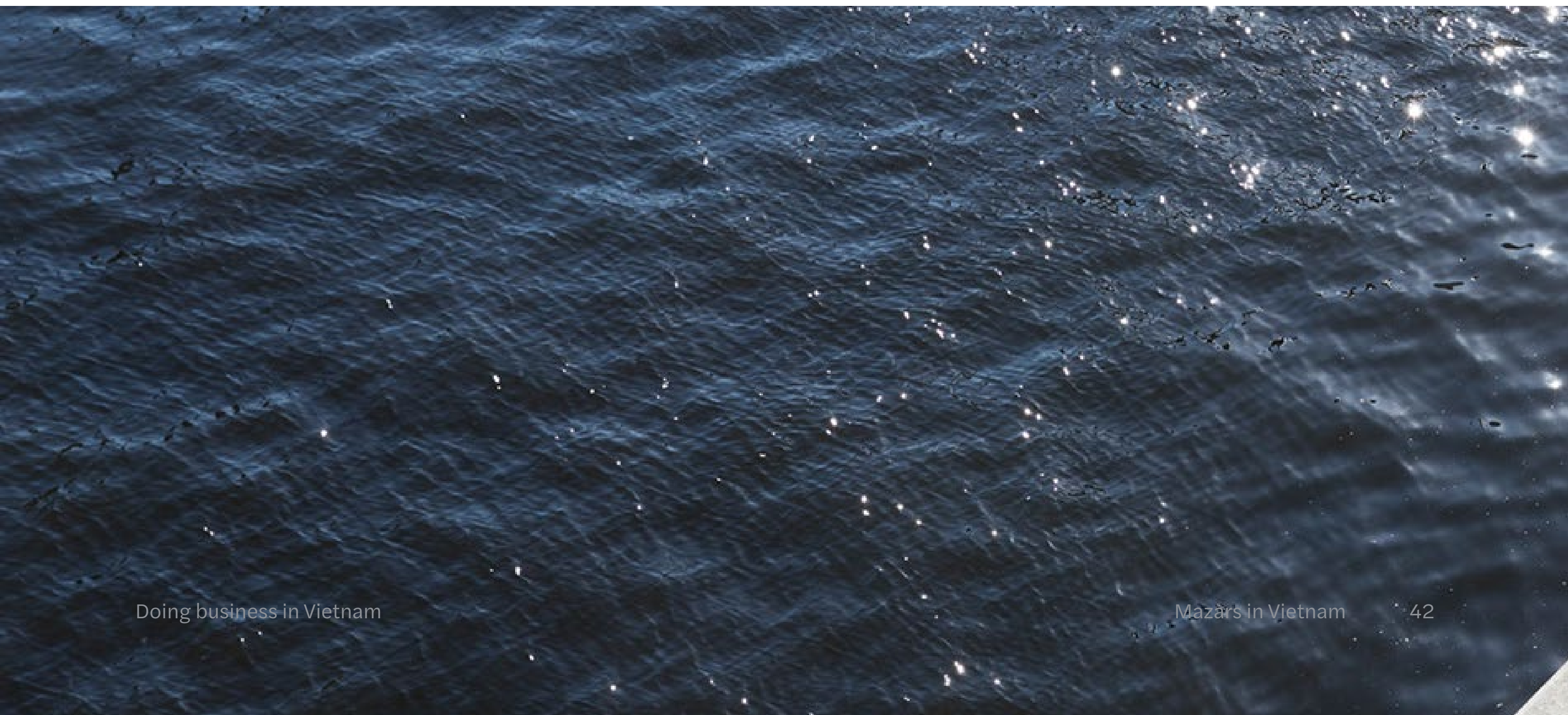
Taxable income

Taxable income includes employment income, business income, income from capital investment, income from capital transfer, income from transfer of immovable properties, and other taxable income.

Employment income is the most common form. In particular, taxable employment income includes income in the form of salaries, wages, remuneration, allowances (excluding some non-taxable income and exempt income as stipulated), income from membership of business associations, boards of management, boards of control, management councils and other organisations, and other benefits in cash or in-kind.

Residency status

Residents	A foreigner is considered tax resident if he/she stays in Vietnam for 183 days or more during a tax year, or if he/she stays in Vietnam for less than 183 days but maintains a regular residential location in Vietnam (notwithstanding, a foreigner in the latter case can be considered non-resident in Vietnam if he or she can prove tax residency in another country). This can be reconsidered in light of the provisions of relevant Double Tax Agreement that might apply. A resident taxpayer is subject to PIT on his/her worldwide income.
Non-residents	A foreigner is considered non-tax resident in Vietnam if he/she does not fall into the above conditions of resident taxpayers. A non-resident foreigner in this circumstance is taxed on his/her Vietnamese-sourced income.



Personal Income Tax ("PIT")

Allowable deductions

An allowable deduction is available for resident taxpayers having taxable employment income, including compulsory insurance contributions, charity and humanitarian contributions, and family deduction.

Tax rates

For employment income, tax residents are taxed using progressive tax rates with a top marginal rate of 35%; meanwhile non-tax residents are taxed at 20%.

Other incomes are taxed at flat rates, summarised as below:

No.	Income category	Residents	Non-residents
1	Business income (*)	0.5%-5% of revenue (depending on type of business)	
2	Gain on capital transfer	20%	0.1% on sales proceeds
3	Gain on securities transfer	0.1% of sales proceeds	
4	Gain on real estate transfer	2% of sales proceeds	
5	Income from prize-winning/ heritance/gifts	10% on portion exceeding VND 10 million	
6	Income from royalty/franchising	5% on portion exceeding VND 10 million	
7	Interest/Dividend	5%	

(*) Business individuals/households having business income are also subject to VAT (1% - 5% of revenue or VAT-free, depending on type of business income).

Foreign Contractor Tax ("FCT")

FCT, normally referred to as the Withholding Tax regime, is very comprehensive, comprising VAT and CIT (or PIT), and is imposed on foreign entities/individuals not having a legal entity status in Vietnam but carrying out business in Vietnam or earning income in Vietnam as a foreign contractor.

Basically, FCT is imposed in the following circumstances:

01

A foreign entity's sale of goods/commodities within Vietnam (i.e., the delivery place is within the territory of Vietnam or whereby the foreign entity still controls the ownership/quality/pricing or bears some costs related to the distribution of the goods in Vietnam).

02

A foreign entity's sale of goods/commodities which are associated with services to be performed in Vietnam, including but not limited to installation, commissioning and maintenance.

03

A foreign entity's provision of services in Vietnam (with certain exceptions).

04

Other income received in Vietnam in any form (irrespective of the location where the business is carried out).

Current regulations provide **three methods for FCT filing**, which results in different positions of tax payable, each party's responsibility for tax administration as well as other accounting compliance requirements to be undertaken by the foreign contractor and the Vietnamese party.

Declaration method (previously known as VAS Method)	The foreign contractor applies the Vietnamese Accounting System (VAS), pays VAT by the credit method and is liable to pay CIT on their net profit earned from the project/contract at the applicable rate, similar to a Vietnamese enterprise.
Direct method (previously known as Withholding Method)	The foreign contractor pays FCT on a deemed withholding basis. FCT applies at various rates, depending on the nature/scope of the contract. It is the responsibility of the Vietnamese contracting party to register the contract with the local tax department, and to withhold and pay the applicable FCT to the local tax department.
Hybrid method	This is a combination of the above two methods. VAT is declared using the credit method (same as Declaration Method), while CIT is declared on a deemed basis (same as Direct Method).

Direct method is the most common one.

Foreign Contractor Tax ("FCT")

The FCT deemed tax rates are as below:

Business activity	VAT rate	CIT rate
Trading: distribution, supply of goods, raw materials, supplies machinery and equipment; distribution of goods, raw materials, supplies, machinery and equipment attached to services in Vietnam (including those provided in the form of domestic exports, except for goods processed under processing contracts with foreign entities); supply of goods under Incoterms	N/A	1%
Service, machinery and equipment leasing, insurance, lease of oilrig	5%	5%
Restaurant/Hotel/Casino management services	5%	10%
Lease of aircraft, aircraft engines, aircraft spare parts and sea going vessels	5%	2%
Construction and installation WITH supply of materials, machinery and equipment	3%	2%
Construction and installation WITHOUT supply of materials, machinery and equipment	5%	2%
Production, transportation and service with supply of goods	3%	2%
Transfer of securities, certificates of deposit, ceding reinsurance abroad, reinsurance commission	N/A	0.1%
Derivatives financial services	N/A	2%
Loan interest	N/A	5%
Income from royalties	N/A or 5%	10%
Others	2%	2%

New tax declaration mechanism

Since the old FCT regulations enforced the compliance mostly via the withholding mechanism which is applicable for business-to-business operation (the buyer is Vietnamese organization), there is no tax collection mechanism for the business-to-consumer. The new mechanism was introduced and took effect from 01 January 2022. Accordingly, the foreign suppliers are obliged to carry out the tax registration, declaration, and payment toward its revenue in Vietnam through the online portal of the General Department of Taxation. Although, the applicable tax rate is quite similar to the table above, it is still slightly different for some specific business activities.

Taxation

Export and Import duty

Export duties

Export duties are primarily applied to agricultural products (e.g. rice, forest products and fish) and natural minerals. Rates may be up to 40% and are imposed on the F.O.B price of exported goods.

Import duties

Import duties are charged on a much wider range of goods. Rates are calculated taking product type and origin into account.

There are three categories of duty rate as follows:

- Preferential rates are applied to goods imported from countries / territories which have Most Favoured Nation ("MFN") status with Vietnam.
- Special preferential rates apply to goods imported from countries which have a special preferential agreement with Vietnam, e.g. the ASEAN member countries under the CEPT and EU member countries under the Textile-Garment Treaty between Vietnam and the EU; and
- Ordinary rates apply to goods imported from other countries. Applicable duty rate in most of the cases are equal 150% of MFN duty rate (preferential rates) applicable on the same products.

Vietnam is in the process of promoting imports, and co-operation with many countries (including ASEAN countries, India, Australia/New Zealand, Korea, Japan, China, Chile, Eurasia, EU) via various bilateral and multilateral trade agreements in order to reduce customs duty rates and the abolition of non-tariff trade barriers based on the relevant treaties. The most recent effective ones are the EVFTA between Vietnam and EU, and the UKVFTA between Vietnam and United Kingdom.

More than that, there are also many incentive schemes of tax exemption applying on new investments and export-production plans in Vietnam, in aiming to attract new investment and encourage export business.

Taxation

Other taxes and fees

Special Sales Tax

Special sales tax is only imposed on some kinds of goods such as cigarettes, beer, alcohol, cars, motorbike, airplane, yachts, air-conditioners, gasoline, etc., and services such as running dance halls, casinos, golf businesses and lottery businesses. The rate of special sales tax ranges from 1% to 150%.

Natural Resources Tax

Natural Resource Tax is imposed on organisations or individuals exploiting natural resources such as oil, minerals, forest resources, marine products and natural water etc. Tax rates range from 1% to 35%.

Law on Non-agricultural Land Use Tax

The Law on non-agricultural land use tax was effectively introduced from 01 January 2012, replacing the old 1992 Ordinance on Housing and Land Tax and its amendment in 1994 and governs the three following objects:

(1) Residential land in rural and urban areas;

(2) Non-agricultural production and business land, including land for the construction of industrial parks; land for the construction of production and business establishments; land for mineral exploitation and processing; and land for the production of construction materials and pottery articles;

(3) Non-agricultural land which is used for commercial purposes. Non-agricultural land which is used for non- commercial projects is not subject to this kind of tax. In addition, the regulations also provide nine cases of tax exemption and four cases of 50% tax reduction.

Basically, those who are responsible for tax declaration and tax payment are organisations, households and individuals that have the right to use taxable land. Where organisations, households or individuals have not yet been granted with certificates of land use rights and/or certificates of ownership of houses and other land-attached assets, the current land users need to pay the tax.

Environmental Protection Tax

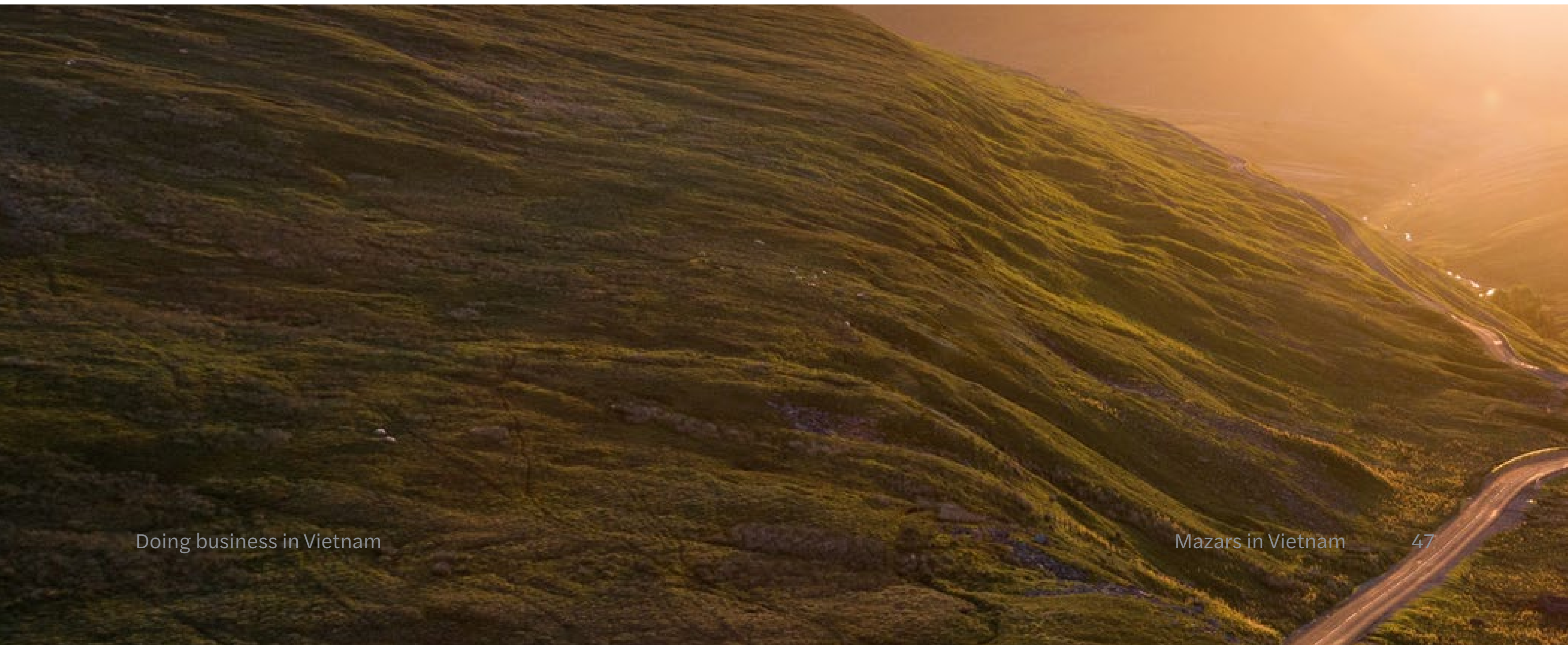
Environmental Protection Tax is imposed on products that are considered to have any negative impact on human health or the environment such as coal, petrol, plastic bags, oil, etc.

Tolls and Fees

Other than the above, there are some other tolls and fees such as leasing fees for land use.

Tax audits and Penalties

Enterprises are audited by the tax authorities on a regular basis, typically once in every 3 to 5-year period. In addition, the enterprise may also be subject to inspections from other Vietnamese authorities (for example, the Customs Department, General Department of Taxation, Ministry of Finance, State Audit). The time and scope of the inspection are notified by a written notice which is sent to the enterprise prior to the inspection. Such tax audit or inspection may result in tax collections, interest on late tax payment and penalties, which statute of limitation set at 2 and 5 years for administrative penalties and penalties for incorrect tax declarations/tax fraud, respectively.



Taxation

Double Tax Agreements (DTA)

Vietnam has now concluded Double Tax Agreements on avoidance and prevention of double tax with around 80 countries and others are at various stages of negotiation.

Generally, all of the DTAs benefit taxpayers by providing tax exemptions or tax credit schemes as a measure to avoid double taxation. The DTAs also provide restriction on tax rates on some specific kinds of income (see below) and the tax sparing system for developing countries in their initial economic development stage, such as Vietnam.

Tax rates

The DTAs set out the maximum rates of tax applied to some kinds of income and if the tax rate stipulated by domestic Vietnamese law is different from that in the DTAs, the lower rate shall be applied.

Tax exemptions for a short-term stayer

Generally, a short-term stayer is exempt from tax in the country where the income is earned by virtue of the Tax Treaty if the following three conditions are met:

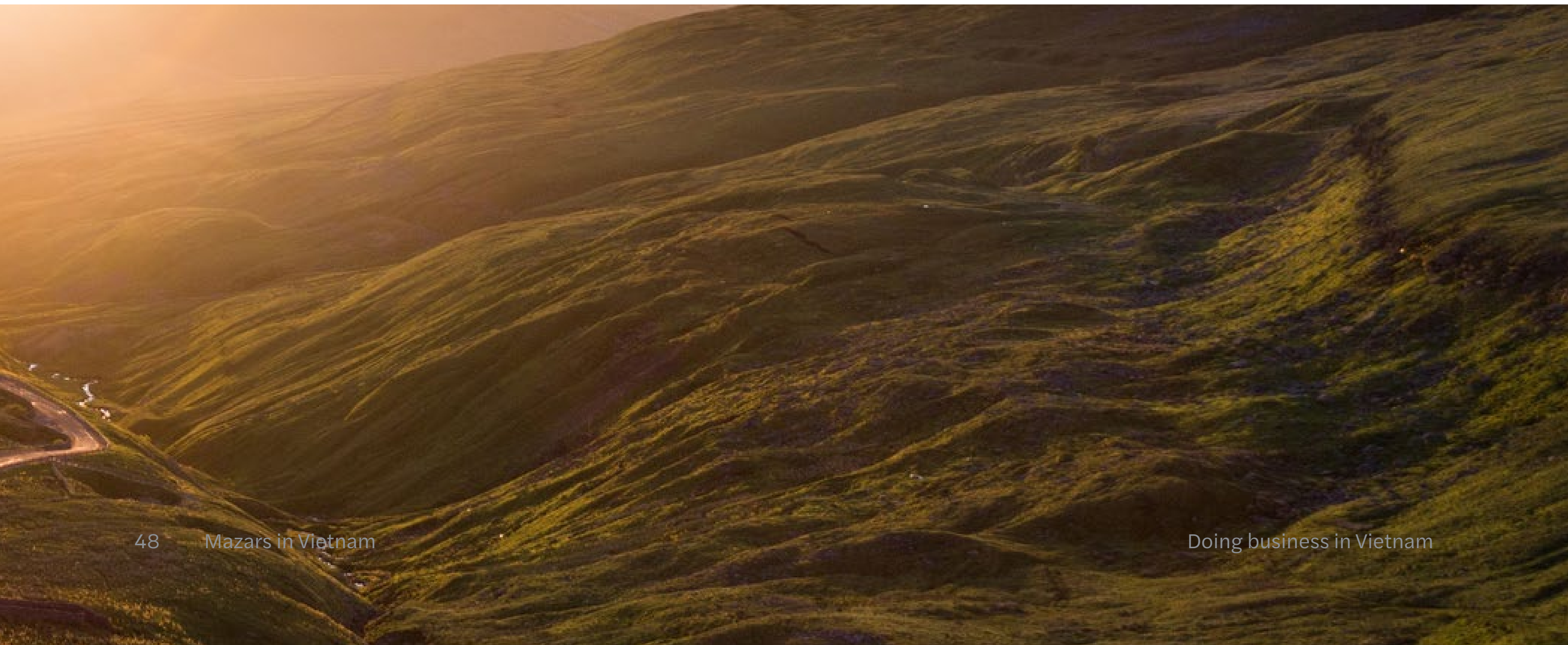
- The number of days in Vietnam is less than 183 calendar days;
- The source of remuneration is not a resident of Vietnam; and
- The remuneration is not borne by a permanent establishment that the employer has in Vietnam.

However, the rules of the tax treaty are not automatically applied, and the taxpayer needs to make specific application to the tax authority if tax exemption is to be claimed.

Tax sparing credit system

In order not to diminish existing tax incentives given by the Vietnamese Government, some tax DTAs recognise the tax sparing credit system (i.e. exemption of deemed foreign tax) by a specific tax treaty due to strong requests from developing countries as well as from political considerations of economic co-operation with such countries.

Accordingly, the tax exemptions according to Vietnam law are entitled to the tax sparing credit where the resident of the other country shall be entitled to credit the Vietnamese tax that would have been paid according to the laws of Vietnam (and the treaty) if the Vietnamese tax had not been reduced or relieved in accordance with the special incentive measures designed to promote economic development in Vietnam. This tax sparing credit system normally terminates a certain number of years after the tax treaty is effective.



Accounting & Audit

Legal framework of the Vietnamese Accounting System

The legal framework of the Vietnamese Accounting System was stipulated in the Accounting Law issued by the National Assembly of Vietnam in 2003. New regulation was approved in late November 2015 and took effect from 01 January 2017.

The Accounting Law provides the legal framework for accounting, and corporate reporting in Vietnam. Under Accounting Law, all companies are required to prepare their financial statements in accordance with Vietnamese Accounting Standards ("VAS"), Vietnamese Enterprise Accounting System (not applicable for credit institutions) and detailed guidelines of the Ministry of Finance.

The Accounting Law endorses the alignment of VAS with International Standards for the preparation of corporate Financial Statements.

The accounting system in Vietnam

Enterprises with foreign-owned capital and foreign parties to business co-operation contracts (collectively "FIEs"), are required to adopt the Vietnamese Enterprise Accounting System (not applicable for credit institutions), VAS and their interpretive guidance.

Generally, companies do not need to register their accounting system if they are fully complying with the standard accounting system. However, when a company wishes to adopt any supplement or revision to the standard, the company must register and get approval from the MOF before implementation.

The general requirements of the Vietnamese Accounting System include:

- The use of Vietnamese language or both Vietnamese language and another widely used language in the preparation of accounting records. The use of Vietnamese Dong as the accounting currency . Only in limited cases can FIEs use a "foreign currency" as the accounting currency .
- Chart of accounts must be complied with the Vietnamese Accounting Regulations. If business enterprises wish any changes in the chart of accounts, they must register and get approval from the MOF before application.
- Numerous reports must be produced as specified in the Vietnamese Accounting Regulations.

Accounting currency

As noted above, it is required that companies in Vietnam (including foreign invested companies) must use Vietnamese Dong as the accounting currency. However, where the company mainly receives income and makes payments in a foreign currency, the company could use a foreign currency regulated by the MOF as its accounting currency. The company must be self-responsible for this and notify the tax authority upon implementation. Companies with foreign capital established and operating in Vietnam and using foreign currency as their accounting currency shall concurrently make financial statements in the accounting monetary unit (foreign currency) and convert these statements into Vietnamese Dong for submission to state management agencies.

The Vietnamese Accounting Standards ("VAS")

Accounting treatments are not always clearly stipulated in the VAS and may therefore be made based on the International Accounting Standard. The reason is that it is considered as the implicit policy of the MOF to use the International Accounting Standard is to fill the gaps left by the not-yet-fully developed "fair accounting practice" in Vietnam. Needless to say, its application should be pre-approved by the MOF.

The MOF issued Decision 345/QD-BTC dated 16 March 2020 which provides detailed plan for application of International Financial Reporting Standard ("IFRS") in Vietnam. According to the Decision, for the first phase from 2022 to 2025, some specific groups of enterprises can voluntarily apply IFRS by notifying the MOF before such application. For the later phase from 2025, basing on assessment of the first phase, the MOF will determine the deadline for compulsory IFRS for certain groups of enterprises.

Accounting & Audit

Fiscal year

The fiscal year applicable to FIEs in Vietnam is normally a calendar year i.e. 01 January - 31 December. FIEs may notify to the local tax authority their own 12-month fiscal year, commencing from the first day of a quarter and ending on the last day of the previous quarter in the following year. For the first/last fiscal year (i.e. the year of company establishment and closure), the accounting period can be more than 12 months but must not be longer than 15 months.

Accounting staff

Every enterprise is required to employ a Chief Accountant who must satisfy the criteria and conditions stipulated by the Law on Accounting, except for micro businesses.

A foreigner may be appointed to act as the Chief Accountant of the enterprise, provided that he/she meets the prescribed conditions and he/she has a certificate of accounting expertise or an accounting/auditing certificate issued by a foreign organisation recognised by the MOF; or an accounting/auditing professional practising certificate issued by the MOF; or a Chief Accountant certificate obtained after having passed the chief accountant's training course as prescribed in the regulations of the MOF.

Audit

The annual financial statements of FIEs must be audited in accordance with Law on Independent Audit. The audit must be carried out by an independent auditing company permitted to operate in Vietnam.

According to the provisions of Clause 1, Article 15, Decree 17/2012/ND-CP providing guidance on the Law on Independent Audit, FIEs are required to submit audited financial statements to the authorities annually (e.g. finance authority, General Statistics Office, licensing authority, local tax authority, etc.) within 90 days from the date the fiscal year ends.

Representative Offices and Project Management Offices are not subject to audit and only have to produce Financial Statements to meet the obligations of the parent. However, they are required to keep the accounting records under simplified VAS.

Internal audit

The legal framework of the statutory internal audit was stipulated in the Decree 05/2019/ND-CP ("Decree 05") dated 22 January 2019 issued by the Vietnamese Government in 2019 and took effect from 01 April 2019. Per Decree 05, the internal audit is required for, among others, enterprises of the following forms:

- Listed companies;
- Enterprises with 50% of their charter capital held by the State, which are parent companies operating in a parent - subsidiary business model; and
- State enterprises which are parent companies operating in a parent - subsidiary business model.

The concerned enterprises are required to proceed to comply with such requirement before 01 April 2021 (i.e. 24 months from the effective date of Decree 05). Of note, enterprises may hire independent audit companies which are legally accredited to render audit services. In case where enterprises hire accredited independent auditing companies to provide internal audit services, they must ensure conformance to fundamental internal audit principles and other requirements as stipulated.

Mazars offers a Chief Accountant service whereby we take the post of Chief Accountant and our client outsources some or all of the Accounting to us. It is not possible for a firm to be both Auditor and Chief Accountant .

Labour and Immigration

Visa & temporary residence card
Work Permit and Certificate of Work Permit Exemption
Salary
Compulsory insurance
Employees' representative organization

Labour and Immigration

Visa & temporary residence card

Due to the outbreak of acute respiratory infection (Covid-19), the immigration of foreigners into Vietnam was restricted in accordance with multiple policies of the Vietnamese Government from 2020 to 2021.

However, as of 15 March 2022, the Vietnamese Government Office has lifted all the restrictions on immigration applied to foreigners during the Covid-19 outbreak, which restored all the statutory procedures of entry and exit for foreigners in accordance with the prevailing regulations. Without prejudice to the foregoing, foreigners still have to comply with guidance for healthcare and Covid-19 test when entering Vietnam.

Basically, foreigners are allowed to enter into Vietnam by obtaining a visa, which is categorised into a number of different types such as: LD1 and LD2 (“Labour”); DT1, DT2, DT3, DT4 (“Investment”); DN1 and DN2 (“Enterprise”); etc. An appropriate type of visa will be depended on:

i. the purpose of the entry to Vietnam;

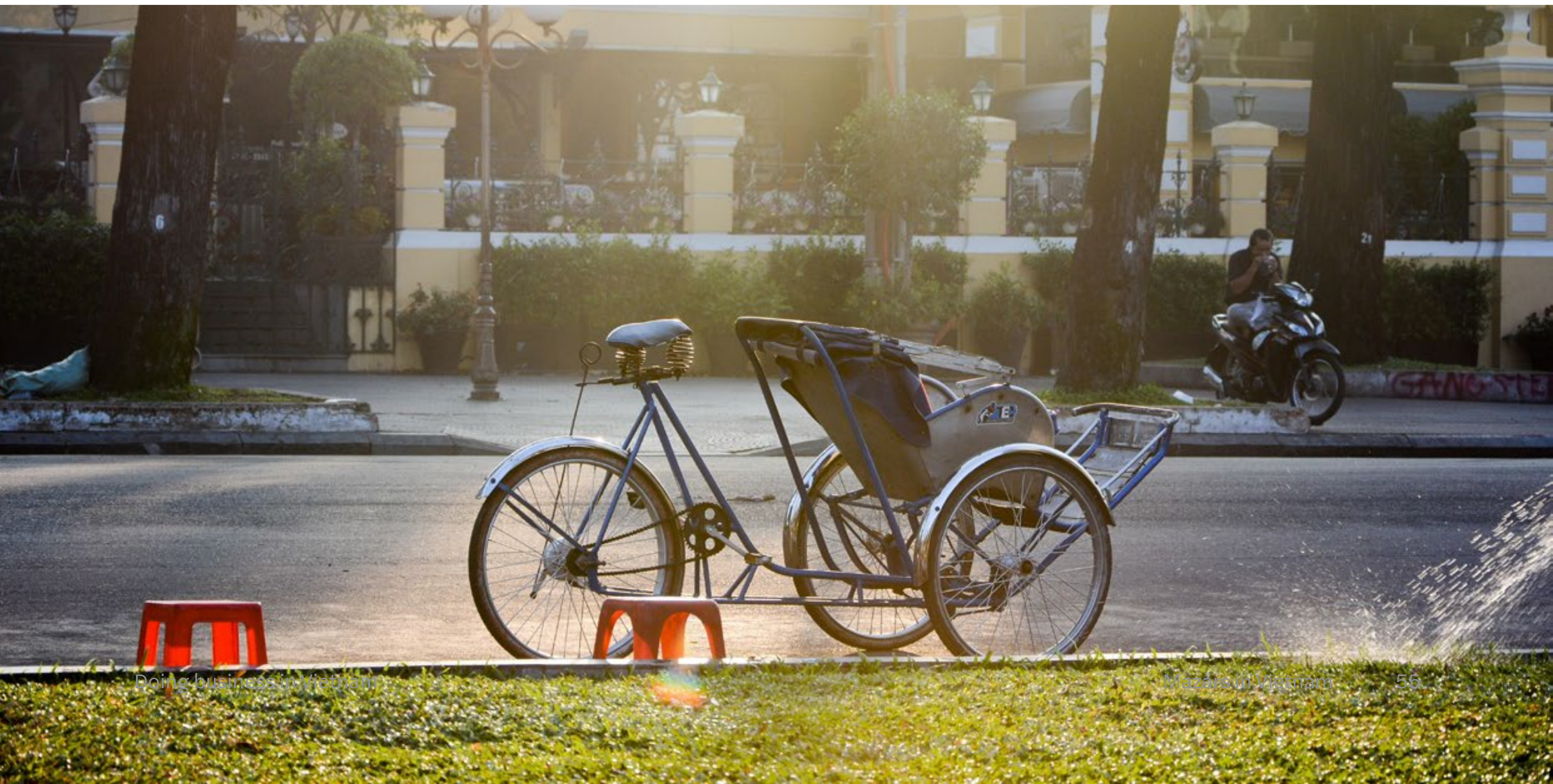
ii. status of obtaining the Work Permit/ Certificate of Work Permit Exemption (applied for the visa type of Labour);

iii. the form of the sponsoring organization;

iv. charter capital of the sponsoring organization (applied for the visa type of Investment).

Without prejudice to the generality of the foregoing, citizens of certain countries may visit Vietnam without a visa for a certain period of time, for instance citizens of Asean countries or citizens of 13 countries including German, France, Italian, Spain, the UK and Northern Ireland, Russia, Japan, Korea, Denmark, Sweden, Norway, Finland, and Belarus (according to Resolution 32/NQ-CP dated 15 March 2022).

On the other hand, visa can be replaced by a temporary residence card (“TRC”) which grants the foreigners the right to temporarily reside in Vietnam for a certain length of time up to 03 years or 10 years (for Investment TRC only) provided some requirements are satisfied. Nevertheless, the investors with the investment capital of under VND 3 billion will not be eligible for the issuance of “Investment TRC”.



Labour and Immigration

Work Permit and Certificate of Work Permit Exemption

In order to legally work in Vietnam, the foreigners must obtain a Work Permit ("WP") or a Certificate of Work Permit Exemption ("CoWPE"), as the case may be. Under the Labour Code 2019 (coming into force as from 01 January 2021) and its guiding legislations, the term of a WP or a CoWPE shall not exceed 02 years. Notably, the WP is now only allowed to be extended once with the validity term of 02 years for the maximum.

In some special cases, neither WP nor CoWPE is required such as a foreigner entering Vietnam to work as a manager, executive director, expert or engineer no more than 3 times per year and working period of each entry is under 30 days, or a foreigner marrying a Vietnamese citizen and residing in Vietnam, or an owner or a capital contributing member of a limited liability company owning a capital contribution valued of at least VND 3 billion, or chairperson or a member of the Board of Directors of a joint-stock company with a capital contribution value of at least VND 3 billion. Instead, the employer just needs to explain the demand for recruiting foreign employees (as the case may be) and send a notification to the competent labour authority on the case of exempting from the obligation of obtaining the WP or CoWPE.

Salary

Enterprises directly employ and agree on salaries with their employees. However, they must comply with the regulations on minimum wages. The Government of Vietnam approves the base salary (previously known as the common minimum salary) and regional minimum salary applicable from time to time.

Employees' representative organization

All organizations having employees in Vietnam are subject to Law on Trade Union (leading to the requirement on contribution to Trade Union Fund). Setting up Trade Union is optional though and enterprises have to satisfy certain conditions in accordance with the Law on Trade Union.

According to the prevailing Labour Code 2019, in addition to Trade Union, employees are entitled to either form or join other representative organizations that are independent of the State-run Vietnam General Confederation of Labour. Such organizations shall be legally established and operate after being registered with the competent authority.

Compulsory insurance

Generally, when a Vietnamese employer ("ER") enters into a labour contract with an employee ("EE") – either local or foreign, both parties are required to make contributions to the compulsory social insurance ("SI"), health insurance ("HI") and unemployment insurance ("UI") funds (except for some cases) as below:

No.	Contribution category	By employer	By employee	Capped at (*)
1	Social insurance	17.5% (**)	8%	20 times of base salary
2	Health insurance	3%	1.5%	20 times of base salary
3	Unemployment insurance (local only)	1% (**)	1%	20 times of regional minimum salary

(*) The above contribution rates are applied to total basic salary, certain allowances and other supports as stipulated in the labour contract, but subject to a cap.

(**) The contribution rates of SI and UI (ER's contribution part) have decreased slightly for several months in 2021/2022 thanks to some measures to support ERs/EEs during the COVID-19 pandemic.

Land

Land Use Rights ("LURs")
Land lease
Lease term
Land rent incentives
Houses/Apartments owned by foreigners

Land

Land Use Rights (LUR's)

Normally, the foreign investors can obtain LURs (i) by way of a joint-venture to which a local Vietnamese partner contributes an LUR as a capital contribution, or (ii) by way of land leased directly from certain permitted lessors such as the State of Vietnam. Nevertheless, the FIEs implementing investment projects for the construction of houses for sale or for a combination of sale and lease may also be allocated land with land use levy.

Land lease

The foreign investor may lease the land directly from the State of Vietnam after he/she/they establish(es) an FIE in Vietnam or sub-lease land from an infrastructure developer.

Lease term

The lease term must be consistent with the duration of the approved investment project provided that it does not exceed 50 years or, in some circumstances, 70 years. The extension of the lease term may be allowed by the State of Vietnam for an additional period without exceeding the said term upon expiry if the lessee wishes to continue to use the land.

Land rent incentives

Land and water surface rent exemptions and reductions apply to a number of investment projects which satisfy certain conditions such as investment in encouraged sectors or certain fields of business and/or encouraged geographical locations. The FIEs and foreign parties to BCCs may enjoy land and water surface rent exemptions of between 03 years to the whole operational period, and/or land and water surface rent reduction in some cases.

Houses/Apartments owned by foreigners

Under the prevailing laws, the following foreign organizations and individuals are allowed to purchase and own residential houses/apartments in Vietnam (subject to certain conditions and circumstances):

- The foreign entities who invest in project-based housing construction in Vietnam as prescribed in the Law on Residential Housing and the relevant regulations of laws;
- The FIEs, branches, representative offices of the foreign enterprises, foreign-invested funds and branches of foreign banks operating in Vietnam;
- The foreign individuals who are allowed to enter Vietnam.

Foreign exchange control

Bank accounts
Foreign exchange control implications
Profit remittance

Foreign exchange control

Bank accounts

Companies are required to open and operate a Vietnamese Dong ("VND") currency account at a commercial bank licensed to operate in Vietnam. They can also open a foreign currency account if the operation requires. The FIEs, foreign investors participating into BCCs or directly implementing public-private partnership ("PPP") investment projects without establishment of project enterprises are particularly required to open a Direct Investment Capital Account ("DICA") at a commercial bank in Vietnam through which all capital transactions would be handled (e.g. capital contribution, the foreign loans including both short-term loans and mid/long-term loans).

Foreign exchange control implications

The foreign exchange regulations of Vietnam require all transactions within the country and between Vietnam residents be made in VND, except for a number of exceptional transactions that can be conducted in foreign currency which often include:

- payment for the purchase of goods and/or services from individuals and organizations outside Vietnam;
- repayment of the foreign loans and interest;
- collection of turnovers from the provision of goods and/or services to the foreign customers outside Vietnam; and
- payment of salaries, bonuses, and allowances to the foreign employees.

Profit remittance

Under the prevailing laws, the foreign investors are only permitted to transfer after-tax profits abroad (tax on remittance of profits abroad is no longer applied) either at the end of the fiscal year or upon termination of the direct investment activities in Vietnam. The FIEs must fulfil its tax and financial obligations to the State of Vietnam, submit their audited financial report and have CIT finalised before such remittance.

The foreign investors are required to directly make or authorise the FIEs invested by such investors to make a Notification of remittance of profits abroad to the competent tax authority at least 07 working days in advance of the remittance date.

Practical information

Transportations
Telecommunication
Time relative to Greenwich Mean Time ("GMT")
Business hours
Public holidays

Motorbikes

- The most popular mean of transportation used by Vietnamese is probably motorbike, while in big cities, there have been a significant evolution with growing proportion of cars
- Private transportation services are quite well developed with taxis and ride-hailing platforms
- Bus transport dominates for long distances and it is relatively expensive to hire a car and driver for the day if it is necessary to visit an outlying town or an industrial park well away from the city.

Railways

- Vietnam Railways is the state-owned operator in Vietnam, which has about 3,163 kilometres of track, of which 2,703 kilometre of main lines, 460 kilometre of station's inner lines and branch lines. It is slow and cumbersome to the eyes of Westerners but is effective, nonetheless.
- Vietnam is pushing ahead with the construction of its first urban metro projects in both Hanoi and Ho Chi Minh City. Positively, the trial phase of the first metro lines (Cat Linh - Ha Dong) in Hanoi was completed and put into operation in 2021. Meanwhile, the expected time for completion of the metro project in Ho Chi Minh City will be delayed until late 2023.

Motorways (or Express ways)

- Vietnam's expressway network is a relatively new addition to the country's transportation network. The first expressways opened in the mid-2000s; by 2020, the expressway network is planned to span 1,276 kilometers (793 miles), with ambitions for approximately 7,000 kilometers (4,300 miles) of expressway by 2030.

Practical information

Airports

- Airports are numerous, but the largest ones by far are Noi Bai (Hanoi) and Tan Son Nhat (Ho Chi Minh City), which are both major international hubs. It is notable that Government has approved the construction of Long Thanh International Airport in Dong Nai, which is expected to be the largest airport in Vietnam when finished.
- Vietnam currently has 05 licensed commercial airlines, with state- owned Vietnam Airlines and budget airline VietJet Air dominating the playing field. New players Bamboo Airways (operational now for over two years) and Vietravel Airlines (newly operated in late December 2020) and low-cost carrier Pacific Airlines (previously known as Jetstar Pacific) make up the rest of the market.
- There are regular flights between all major cities in Vietnam. Domestic flights take from 40 minutes up to about 2 hours depending on the routes. According to IATA, Vietnam is one of the 5 airway markets with the largest increase in passenger volume after China, the US, India and Indonesia. And it is expected to grow even further.

Seaports

- With the long coastal line, Vietnam is the key location for international shipping access. Vietnam has 45 deep-sea ports with a total capacity of more than 500 million tons per year, contributing to the total of over 300 big and small ports across the country. Major seaports are located in key economic cities namely Hai Phong, Da Nang, and Ho Chi Minh City.
- Vietnam has established 32 shipping routes, with 25 international routes and 7 domestic ones. Apart from intra-Asia routes, Vietnam also operates long-distance ones to North America and Europe, becoming the competitive sea-shipping destination only after Singapore and Malaysia.

Practical information
Transportations

Telecommunication

Vietnam is well equipped with WIFI and 4G internet networks across the country, with plans for 5G network underway. Majority of the population of large cities uses electronic devices where most coffee shops, restaurants and hotels offer complimentary WIFI access. Disparities between urban and rural areas are no exception when it comes to telecommunication.

Time relative to Greenwich Mean Time (GMT)

Vietnam is seven hours ahead of GMT year round, but does not operate daylight saving time. So, the time difference to the UK changes between 6 and 7 hours (France 5 and 6 hours) depending on the time of the year.

Business hours

Businesses in Vietnam generally operate an eight-hour day between 8:00am and 5:00pm. A one-hour lunch period is usually taken between midday and 1:00pm. Most business offices are closed on Saturday and Sunday. Retail hours are considerably longer.

Public holidays

Vietnamese people celebrate 11 public holidays a year.

International New Year's Day (in Vietnamese "Tết Dương lịch")	01 January
Vietnamese New Year's Days (in Vietnamese "Tết Nguyên Đán")	The date of Vietnamese New Year's Days is based on the Lunar Calendar and takes 5 days. During these holidays, local public services, shops, and restaurants are often closed, and consumer prices tend to increase significantly. Normally late January or February.
Vietnamese Kings' Commemoration Day (in Vietnamese "Giỗ tổ Hùng Vương)	A traditional holiday commemorating the Mythical Hung Kings – The first king of Van Lang or Lac Viet. The date of this holiday is also based on the Lunar Calendar.
Liberation Day - 30 April	Celebrates the reunification of Vietnam in 1975
International Worker's Day - 01 May	Celebrates the workers' economic and social achievements
Independence Day - 02 September	Celebrates the declaration of Vietnam Independence (From 01 January 2021, employees will be entitled to 2 days off for this occasion).

What we do
Services tailored to our clients' needs

We operate as one team, taking a collaborative, integrated approach that allows us to deliver consistent and personalised services to our clients, of all shapes and sizes, across all sectors and geographies.

Audit & assurance

We have the technical knowledge, commitment to quality and dedication to service to provide clients with a first-class audit.

Outsourcing

We have a strong track record in helping businesses internationalise. Our outsourcing services are flexible and scalable, enabling you to react quickly to change in your business or markets.

Financial advisory

We provide certainty and clarity to clients during critical business lifecycle events – whether it's raising funds, developing an acquisition strategy, restructuring or carrying out an investigation.

Tax

We provide bespoke advice in all areas of taxation, helping corporates and private clients at both national and international levels.

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