

I. TAX POLICY FOR FOREIGN-INVESTED ENTERPRISES AFFECTED BY THE VIETNAMESE FOREIGN INVESTMENT LAW

1. Tax system

The taxes on foreign direct investment in Vietnam include:

- The value-added tax
- The tax on special consumption
- The corporate income tax
- The import and export taxes
- The tax on natural resource exploitation
- The tax on high income earners
- The tax on overseas transferred profits
- The rent of land and water surface

The taxable price is determined specifically for goods and services sold locally, exports, lease of properties, processed goods...

Tax rate: 0%, 5%, 10%, and 20%.

- Method to assess tax:
 - + Deduction of input value added tax
 - + Direct calculation of value added

SPECIAL CONSUMPTION TAX

The tax is charged as a percentage of the selling price (importing price) of some special goods and services to moderate production and business of special goods and increase the state budget revenue from the consumers of these items.

- Taxable articles: cigarette, liquor, beer, and high-grade entertainment services...

+ Regarding foreign and local organizations and individuals exploring and exploiting oil and gas, the tax rate is 50%; exploiting other natural resources, 32%-50%.

IMPORT AND EXPORT TAXES

- They are indirect taxes levied on goods imported and exported.
- Taxable articles: Goods are allowed for export and import.
- Taxpayers: importers and exporters.
- Tax base: volume of commodities, taxable price and tax rate of imports and exports.

TAX ON HIGH INCOME EARNERS

- Taxable articles: regular and irregular income of high-income earners.
- Taxpayers: Vietnamese nationals, others residing in Vietnam and foreigners working in Vietnam and having taxable income.
- Tax base: taxable income and tax rate.

Taxable income includes regular and irregular income.

The tax rate is applied in line with the partly progressive tax list for foreigners residing in Vietnam and Vietnamese nationals working abroad, Vietnamese nationals and others residing in Vietnam.

TAX ON FOREIGN INVESTMENT

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- The tax on capital transfer
- Those taxes equally applied to local businesses include value-added tax, special consumption tax, import and export taxes, natural resource tax, personal income tax, capital transfer tax, corporate income tax, and those applied only to foreign-invested enterprises include tax on overseas transferred profits and rent of land and water surface.

2. Major taxes levied on enterprises

The following taxes are equally applied to all local economic sectors as well as foreign-invested enterprises:

VALUE-ADDED TAX

- Nature: it is imposed on the value added of goods and services in each stage of production, distribution and consumption.

- Taxable articles: commodities, services for production, business and consumption in Vietnam (not mentioning those not subject to this tax).

Taxpayers: organizations and individuals producing and trading in taxable goods and services and those importing taxable goods.

- Tax base: taxable price x tax rate

uor, beer, and high-grade entertainment services...

- Taxpayers: organizations, individuals producing, importing and trading in taxable goods and services.

- Tax base: taxable price and tax rate.

CORPORATE INCOME TAX

- It is levied on income of organizations and individuals producing and trading in commodities and services in Vietnam

- Taxpayers: organizations and individuals producing and trading in commodities and services and earning income have to pay the corporate income tax, not mentioning some special cases.

- Tax base: taxable income and tax rate

The taxable incomes are earnings from production, business and others including earnings from overseas production and business.

- Tax rate:
 - + In respect of local enterprises and foreign businesses not affected by the Vietnam's Foreign Investment Law, the tax rate is 32%.

+ The foreign-invested enterprises are subject to 25% if the Foreign Investment Law affects their operation.

3. Tax policy for foreign invested enterprises

In addition to general preferences in the tax policy, foreign-invested enterprises are also given tax incentives such as reduction and exemption of corporate income tax, export tax, import tax and land rent as follows:

-Regarding corporate income tax:

The general tax rate applied to foreign invested enterprises is 25%. Special projects such as exploring and exploiting oil, gas and scarce and precious natural resources will be subject to higher tax rates as compared to common international practice.

The preferential tax rates of 10%, 15% and 20% are applied to the initial period of production and business (from 10 to 15 years) and those projects encouraged in particular industry, geographical area, scale and technology characteristics.

The preferential tax rates are based on criteria of exported product percentage, labor employment percentage, industry and occupation, investment geographical area, investment form and invested technology.

Based on requirements for economic development in each period, the Government determines lists of

projects, areas to encourage investment, conditional investment sectors and industries restricting non-state investment.

In addition to tax rate incentives, foreign-invested enterprises also enjoy tax reduction and exemption in the initial period when they begin producing profits. The reduction and exemption period may be 1 to 8 years based on the Government's regulations.

To encourage foreign economic organizations and individuals to reinvest their earnings from production and business in Vietnam, the Government allows the refund of their paid income tax relative to the income reinvested in the period of three years and more.

-Regarding import and export taxes:

To assist foreign invested enterprises in their initial period of establishing fixed assets and encourage the production of goods for export, the Government allows to exempt them from import duty imposed on the whole equipment, materials, transport means which are used for contributing capital to establish the enterprise. The tax holiday is also applied to those materials imported to produce goods for export and those used in special projects of encouraged investment in accordance with the Government's regulations in each period.

-As for land rent:

Those projects invested in challenging areas such as mountainous and remote areas and encouraged sectors will be given reduction of land rent from 50% to 90%. In particular, BOT (Build - Operate - Transfer), BTO (Build - Transfer - Operate)

and BT (Build - Transfer) projects will be exempted from land rent.

-Tax on overseas transferred profits:

The tax on overseas-transferred profits is charged at various rates from 5% to 10% based on the value of legal investment capital. Especially for enterprises in the industrial park, export processing zones and high-tech park and BOT enterprises, they enjoy a preferential rate of 5% when transferring their profits overseas.

-Current legal documents:

+ Circular 89/1999/TT-BTC dated June 16, 1999 by the Ministry of Finance on guidelines for the implementation of tax regulations on investment forms affected by the Law on Foreign investment in Vietnam.

+Circular 63/1998/TT-BTC dated May 13, 1998 by the Ministry of Finance on guidelines for the implementation of some tax regulations with a view to encouraging and ensuring foreign investment activities in Vietnam in line with the Government's Decree 10/1998/NĐ-CP dated January 23, 1998 and the Finance Ministry's Circular 115/1998/TT-BTC dated August 19, 1998 on guidelines for amendments of and supplements to the Circular 63/1998/TT-BTC.

II. TAX ON FOREIGN ORGANIZATIONS AND INDIVIDUALS NOT AFFECTED BY THE VIETNAM'S FOREIGN INVESTMENT LAW.

1. Tax on foreign contractors

The tax policy is applied to the two following cases:

- Those implementing the Vietnam's accounting system will be sub-

ject to taxes in line with general regulations in law and legal documents.

- Those not implementing the Vietnam's accounting system: The value-added tax and the corporate income tax are charged by the presumptive taxation on the value added or sales for each specific industry and occupation.

2. Tax on projects funded by official development assistance (ODA)

- The project owner has to declare and pay value added tax in line with regulations by the counter capital from the state budget or other sources.

- Foreign organizations and individuals supplying goods and services to the ODA-funded project pay tax in line with the Law on Value-Added Tax.

- Vietnamese organizations and individuals providing ODA-funded projects with goods and services pay tax in compliance with the VAT Law.

Diplomatic rep offices, consulates and rep offices of international institutions in Vietnam are allowed to enjoy VAT exemption when importing goods and services or buying them in Vietnam such as office leasing, water and electricity supply, telephone charge...in line with the Finance Ministry's Circular 119/1999/TT-BTC dated October 5.

-Current legal documents

+ The Finance Ministry's Circular 95/1999/TT-BTC dated August 6, 1999 on amendments of and supplements to the Circular 169/1998/TT-BTC.

+ The Finance Ministry's Circular 169/1998/TT-BTC dated December 22, 1998 on guidelines for the tax system for foreign entities and individuals operating in Vietnam and not affected by the Law on Foreign Investment in Vietnam.

+The Finance Ministry's Circular 142/1999/TT-BTC dated December 10, 1999 on guidelines for the implementation of the Prime Minister's Decision 223/1999/QĐ-TTg dated December 7, 1999 in respect of the value-added tax on ODA-funded projects and Document 1199/TCT/NV5 dated March 23, 2000 by the General Department of Taxation concerning VAT refund to ODA-funded projects.

- The Finance Ministry's Circular 119/1999/TT-BTC dated October 5, 1999 on guidelines for the implementation of the Law on Value-Added Tax for diplomatic representative agencies, consulates and rep offices of international institutions. ■

