



*Independent legal & accounting firms*

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## **Doing Business in Vietnam**

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**MSI's guide on Doing Business in Vietnam provides current information about the financial, regulatory and legal considerations that could affect business dealings within Vietnam. For further assistance please contact our MSI member firms in Vietnam.**



## Country overview

### Population

Vietnam is located at the center of Southeast Asia and has a current population of approx.. 98 million people (March 2021).

### Government

Vietnam is a Socialist Republic with three main agencies including (i) the National Assembly, (ii) the Government and (iii) the People's court system.

Legislative power is vested in the National Assembly of Vietnam. The Judiciary is independent of the executive.

The Government as the main executive state power is in charge of tasks assigned by the State in the fields of politics, socio-economy, national defense, security and external relations; maintains effective operation of the State apparatus from the central to grassroots levels; ensures the respect for, and implementation of the Constitution and laws; promotes the people's sense of mastery in national defense and construction; ensures stability and improves the people's material and spiritual life.

Components of the Government are the Prime Minister as the head of the Government, Deputy Prime Ministers, and Ministers and Heads of ministerial-level agencies.

Vietnam is divided on 58 provinces and five centrally controlled cities existing at the same level as provinces.

### Languages

Vietnamese is the official language used all over Vietnam. However, more and

more people can speak English as the second language in Vietnam, especially in the big cities like Ho Chi Minh city, Hanoi city and Da Nang city.

### Currency

Viet Nam Dong (VND) or Dong in the shorter way is the official currency in Vietnam.

### Economic summary

GPD: \$343 billion  
Income per capita: \$3,521  
Inflation: 2.31%

### Main sectors of the economy

Vietnam is one of the fastest growing countries in the world in current years. The Government's effective policies, its strategical location at the center of Southeast Asia area, the stable political environment and other relevant factors help Vietnam maintain the miraculous and stable development.

There are three main fields of the economy including agriculture, industry and service. In 2020, agriculture contributed 14% of GDP and 36% of the total workforce. The main agricultural crops are rice, rubber, coffee, sweet potatoes, corn, pepper, peanuts. The agricultural trade surplus edged up on the year in 2019.

Industries represented 34.5% of GDP and employed 28% of the total workforce. Energy, manufacturing, industrial production, processing industry, etc. have been growing rapidly. Vietnam also invests in high value-added industries such as software, cars.

Services contributed 41.6% of GDP and 35% of the total workforce in 2020. Two

main services are tourism and telecommunications.

### Member of ASEAN and free trade agreements and their impact on businesses and investors

Vietnam is one of members of The Association of Southeast Asian Nations ("ASEAN"). ASEAN is developing to become a significant area in the trade world and attracts a huge number of investment capital from many developed countries in current years. Vietnam has certain advantages due to its strategic location in Southeast Asia.

ASEAN in general and Vietnam in particular, have been actively engaging in a variety of Free Trade Agreements ("FTAs") such as ASEAN - Japan; ASEAN - Korea; ASEAN -China; ASEAN - Hong Kong; ASEAN - Australia - New Zealand; EU-Vietnam Free Trade Agreement, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership to create favourable proportions for Vietnam to receive the investment from countries in the world, especially on manufacturing, industrial processing, wholesales, software, high-tech products.

## Setting up a business

Under Vietnamese laws, Vietnam welcomes the foreign investors including entities, individuals and other organization. Through entering into the World Trade Organization, ASEAN, FTAs, Vietnam creates an open-market in various investment sectors in accordance with the law.

A foreign investor may carry out business activities in Vietnam in forms of investment as follows:

1. Investment for establishment of an economic organization;
2. Investment in the form of capital contribution, purchase of shares, or purchase of a capital contribution portion;
3. Implementation of an investment project;
4. Investment on the basis of a Business cooperation contract;
5. New investment forms and forms of economic organizations as stipulated by the Government.

**Legal types of business entities**

1. Enterprise: (1) Limited-liability company with one or more members; (2) Joint-stock company; (3) Partnership; (4) Business cooperation contract; and (5) Public-private contract;
2. Branch;
3. Representative office.

In Vietnam, Limited-liability company with one or more members and Joint-stock company are popularly used. Both company forms protect their owners from liabilities/responsibilities incurred by such types of entities. It means that in case the owner(s) lose(s) the capital, they contributed to the Limited-liability company or Joint-stock company, but are not liable with other assets for debts exceeding their capital.

**Process of how to set up a business**

Procedures to set up a new enterprise of the foreign investor(s):

Step 1: Obtaining Investment Registration Certificate (IRC); and

Step 2: Obtaining Enterprise Registration Certificate (ERC).

Certificate Project Location	IRC	ERC
Inside industrial zones, export processing zones, high-tech zones & economic zones	Management Board of Economic Zones	Department of Planning and Investment
Outside industrial zones, export processing zones, high-tech zones & economic zones	Department of Planning and Investment	

**Financial year of taxes and financial accounts**

The fiscal year is equal to the calendar year. However, legal entities may choose for a different fiscal year if they wish.

**Accounting and auditing**

The foreign-invested enterprise must submit the statistical report, annual financial statement having been independently audited to the tax authority not later than 90 days from the end of the annual accounting period.

**Incentives foreign investors**

The Government encourages both foreign investors and local investors to invest in sectors prioritized for investment development or difficult areas through incentives.

1. Incentives for sectors: Hi-tech, environment protection, investment for infrastructure development, supporting industries, etc., with only 10% of CIT rate for 15 years.
2. It is 10% of the CIT rate during the whole project if the socialized projects are located in regions with difficult/especially difficult socio-economic conditions.

Depending on the Government's policies from time to time, such incentives may change during the term of the project.

**Taxation**

In recent years, the tax system as well as the policies on tax administration in Vietnam have been constantly amended and supplemented to properly meet the practical requirements of Vietnam and international customs, promoting the development of production and business as well as facilitating favourable conditions for both domestic and foreign investors.

**Value Added Tax ("VAT")**

Value added tax is derived from sales tax and was introduced in Vietnam in 1999. All businesses and importers are subject to VAT regardless of the size or turnover of the goods, taxable services. Although the VAT payer is actually the buyer of goods or services, sellers are responsible for imposing VAT on the price of goods or services they provide. For imported goods, the importer must pay VAT to the customs authority along with the import tax.

VAT is calculated according to three tax grades as follows:

- The tax rate of 0% applies to exported goods and services (including goods, services being used outside of Vietnam's territory, non-tariff areas, providing foreign customers in accordance with Government's regulations), international transportation, and non-taxable goods and services used for export.
- The tax rate of 5% applies to goods and services which are essential to the economy, such as clean water, fertilizer productions; cultivated products, feeds for cattle, poultry, and other domestic animals, medical equipment, stationery, cultural activities, exhibitions, scientific and technological services and some other goods and services.
- The tax rate of 10% applies to goods and services not listed in goods and services to be entitled to the tax rate of 0% and 5%.

**Personal Income tax ("PIT")**

There are two ways to determine when the PIT is imposed under the Law on Personal Income Tax, which are as follows:

1. Residents who earn taxable incomes inside and outside of the Vietnamese territory;
2. Non-residents who earn taxable incomes inside the Vietnamese territory.

Basically, the basis for distinguishing between residents and non-residents is the amount of time that a person lives in Vietnam per year. Residents are entitled to more benefits as paying PIT than non-residents, such as tax reduction based on family circumstances.

Specifically, from 1 July 2020 onwards, the taxpayer exemption is 11 million VND/month (132 million VND/year) in conjunction with 4.4 million VND/dependent exemption/month (if any), while the non-residents cannot be entitled to these above-mentioned amounts of tax exemption.

Based on the type and the amount of income, there is an appropriate tax rate to calculate the amount of tax to be paid under the laws on personal income tax.

**Corporate income tax ("CIT")**

An enterprise established under the laws of Vietnam or an enterprise established under a foreign law with, or without a permanent establishment in Vietnam is obligated to pay CIT under the Law on Corporate Income Tax. Basically, income earned by enterprises established under the laws of Vietnam or the Vietnam permanent establishment of foreign enterprises shall be imposed the CIT, while a foreign enterprise without any permanent establishment in Vietnam only pay for CIT per its income earned inside Vietnam.

Currently, the standard CIT rate is 20%. In terms of activities of prospecting, exploring and exploiting oil and gas and other precious and rare neutral resource, the CIT rate is between 32% and 50%, depending on each project or business establishment.

**Tax rate incentives:** Tax rate incentives and tax exemption and the period of applying tax rate incentive and exemption are considered based on two criteria: preferable business lines and geographical areas (including: extreme socio-economic difficulties, economic zones, or hi-tech parks). Enterprises are entitled to a tax rate of 10% for fifteen years or 20% for 10 years from the date of its incorporation. When the duration of tax rate incentive ends, the CIT rate will be calculated according to the standard rate. Enterprises need to meet all the conditions in accordance with the laws to be entitled to the tax rate incentives and the incentive level will depend on its business lines and the geographical area of operation.

**Foreign Contractor Tax ("FCT") (also called as withholding tax)**

The FCT was introduced to impose a tax on the earnings of foreign companies or individuals offshore providing services for Vietnamese tax residents (hereinafter referred to as "Foreign Contractor"). The FCT is a combination of the VAT and CIT or PIT.

There are three methods by which Foreign Contractors can choose to be taxed under the regulations of Vietnam on FCT.

1. First, the deduction method which requires the Foreign Contractor to register with the Ministry of Finance, conduct Vietnamese accounting, and pay taxes as if they were a Vietnamese tax resident.
2. Second, the direct method allows the Vietnamese purchaser of the goods or services of the Foreign Contractor to withhold the relevant taxes from its payment to the Foreign Contractor and then submit that withheld amount to the tax authorities on behalf of the Foreign Contractor.
3. Finally, the hybrid method allows the Foreign Contractor to act as a Vietnamese tax resident for the purposes of VAT but to have their CIT or PIT withheld by the Vietnamese

purchaser. The applicable tax rates are published separately by the Ministry of Finance and vary depending on the nature of the goods or services sold into Vietnam.

**Import and Export Duties**

Import duty rates include preferential rates, special preferential rates, and ordinary rates, specifically as follows:

- Tax rate incentives apply to imported goods originated from any country or group of countries or territories that accord Vietnam most-favoured-nation treatment; By being a member of WTO, most-favoured-nation tax rates are in line with the WHO commitments and are applied to goods imported from WTO member countries.
- Special tax rate incentives apply to imported goods originated from any country or group of countries or territories entering into agreements on special preferential import duties with Vietnam. Currently, Vietnam concluded several special preferential agreements with the following countries: ASEAN member countries, Australia, New Zealand, India, Japan, Korea, Chile, China and some other countries.
- Ordinary tax rates apply to imported goods not listed in goods to be entitled to tax rate incentives and special tax rates. The ordinary rate is 150% of the tax rate incentives applied to the corresponding goods.

**HR/ Labour Law****Labour Contract**

In accordance with the Labour Code of Vietnam, a labour contract must be in writing. However, regarding a labour contract with the terms of the contract of less than one month, the parties are permitted to conclude an oral labour contract, except for cases that (i) one party of the labour contract is a group of people, employees whose age is under fifteen (15) years old, or (ii) domestic workers who regularly carries out

domestic work for one or more than one households.

With regard to the content of the labour contract, it must contain the following particulars: information of the employer and employee; job description, workplace; the term of the labour contract; wage rate in accordance with the job; working hours; rest hours; and some other particulars related to working conditions, safety, social insurance, unemployment insurance, health insurance, professional training for the employees and other provisions under the parties' agreement in accordance with the Law.

Employers and employees can enter into an indefinite-term labour contract or the definite-term contract whose term must not exceed thirty-six (36) months. And at the end of the first definite-term labour contract, parties are permitted to conclude only one additional definite-term contract.

Regarding the termination of the labour contract, the labour contract only is terminated in accordance with the laws. The employee has the right to unilaterally terminate the labour contract without any plausible reason, while the employer shall strictly comply with the laws as terminating the employee. Generally, Viet Nam is an employee-oriented country.

### **Probation**

Probation shall not be applied to a labour contract with the term less than one (1) month.

The probation duration is based on the nature and complexity of the work but shall not exceed 180 days for the position of enterprise managers prescribed in the Law on Enterprises, the Law on management and use of state investment in enterprises; 60 days for positions that require a junior college degree or above; 30 days for positions that require a secondary vocational certificate, professional secondary school, positions of or for technicians, and skilled employees; or 06 working days for other jobs.

In terms of salary, the probation salary shall not be lower than 85% of the offered official salary.

During the probationary period, either party has the right to terminate the concluded probation contract without prior notice and compensation obligation.

### **Pension**

From 2021, the retirement ages of employees in normal working conditions shall be 60 (sixty) years plus three months for males and 55 (fifty-five) years plus four months for females, and shall increase by three months for males and four months for females after every year.

An employee has the right to be entitled to the retirement pension once satisfying the years of paying insurance contributions under the laws on social insurance. Currently, the requirement for the number of years of paying social insurance to be entitled to the retirement pension is 20 years.

### **Minimum Wage**

There are four region-based minimum wages (Region I, Region II, Region III, and Region IV) in which the minimum wage of each region is different from others. Specifically, the minimum wage paid for employees by the enterprises located in Region I is the highest. The typical example of Region I is Urban/suburban districts of Ho Chi Minh City.

### **Foreigner Employment**

Employers are permitted to employ foreign employees to hold positions of managers, executive directors, specialists and technical workers only when Vietnamese workers cannot meet the professional requirements of those positions. Recruitment of foreign employees in Vietnam shall be explained to and subject to written approval by competent authorities. In return, the foreign employee, except for some exceptions, shall be required to get a work permit as working in Vietnam. The duration of the work permit is two years and can be renewed once for a period up to two years.

### **Social Insurance**

There are three types of insurance that employers and employees are obligated to pay monthly. Specifically, they are social insurance, health insurance and unemployment insurance. However, the ratio of contribution between employers and employees is different, specifically as follows:

Type	Employer	Employee
Compulsory social insurance	17,5%	8%
Health insurance	3%	1,5%
Unemployment insurance	1%	1%
Total	21,5%	10,5%

The contribution of social insurance is determined by the contribution ratio multiplied with the monthly salary, in which the monthly salary is comprised of salary, salary allowance and other compensations specified in an employment contract.

### **Trade Union**

The Trade Union is the representative organization of employees. The establishment and operation of trade union is based on enterprises' voluntary and demand.

The Trade Union fee is paid by total trade union members with the monthly fee rate of 1% of the salary and salary allowance but no more than the amount of 10% of statutory base salary.

The Trade Union fund for operation is paid by enterprises with the remittance level of 2% of the salary fund used for the basis for social insurance payment for employees.

## Contact us

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The information\* provided in this guide cannot be exhaustive and we recommend anyone considering doing business in Vietnam should seek professional advice from our member firms before making any business or investment decision.

### Contact our member firms in Vietnam to discuss your requirements:

#### Legal member

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\*The information in this guide was kindly provided by Apolat Legal.