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**HSBC**   
Commercial Banking

# Doing business in Vietnam







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# Executive summary

Vietnam has attracted many multinational corporations, including those that seek ways to diversify their operations away from China in their 'China plus One' manufacturing strategies.

Vietnam's 87 million-strong population boasts a large and young workforce that has also seen an increase of disposable income in recent years.

Starting from a low economic base in the early 1990s, Vietnam's economy grew strongly and rapidly before it slowed down during the current global financial crisis. Vietnam's economy is already bouncing back to pre-crisis growth trends in 2011, and is expected to continue on this path. With a total revenue growth of 25% a year<sup>1</sup> even in the time of global economic crisis and domestic economic slowdown, the Vietnamese retail market offers a lot of potential for foreign investors.

Sectors which are welcoming foreign investment include infrastructure, tourism development, and related real estate and retail sector development in urban areas.

Limitations on foreign investment in certain sectors have expired or are due to expire under Vietnam's WTO commitments.

Other factors that make Vietnam an attractive country for investors include:

- low labour costs;
- a growing consumer market;
- a gradual move from a centralised to a market-oriented economy; and
- introduction and amendments of legislation by the Government to make foreign direct investment more attractive.

Despite the positive changes, it should be noted that a number of barriers to foreign investment in Vietnam still remain. However, this is a diminishing problem as the Government is actively investing in order to improve the country's infrastructure.

This document contains references to some common issues that investors should be aware of when operating in Vietnam, although specific advice on their particular circumstances should be sought.

<sup>1</sup> Vietnam Chamber of Commerce and Industry





# Foreword

HSBC has a long history in Vietnam – in 1870, the bank opened its first office in Saigon. In August 1995, HSBC opened a full-service branch in the same city, renamed Ho Chi Minh City, before opening a second branch in Hanoi and establishing a representative office in Can Tho City in 2005.

Since HSBC became the first wholly foreign-owned bank to locally incorporate in January 2009, we have grown in every way: we now operate 16 outlets nationwide, employ more 1,600 staff, and offer our customers in Vietnam a comprehensive range of world-class banking products and services, including Retail Banking and Wealth Management, Commercial Banking, Global Banking, Global Markets, Global Payments and Cash Management, Trade and Supply Chain and Securities Services.

In recent times we have seen some difficult market conditions, including increasing inflation, tight liquidity, a high interest rate regime and tough

regulatory requirements. However, if you take a step back and view things from a broader perspective, Vietnam remains a strong growth story.

When other markets were foundering during the economic downturn, Vietnam posted strong growth, and PriceWaterhouseCoopers recently listed Vietnam as the fastest-growing economy among emerging markets. More and more Vietnamese companies are looking to trade internationally, and investors and multinationals all over the world are looking to do business in Vietnam. Our 140-year history in this dynamic, fast-paced market means that we are uniquely positioned to help our customers unlock Vietnam's potential.

We are also committed to playing an active role in developing Vietnam's banking and financial industry and promoting Vietnam as a preferred destination for investment, diligently following the guidelines set down by the State Bank of Vietnam and assisting, however we can, to

bring stability and prosperity to the economy as Vietnam grows as an established key player in the regional and global financial market.

Developed in partnership with PriceWaterhouseCoopers, this book – Doing business in Vietnam – provides a thorough analysis of the opportunities and obstacles of establishing and running a business in this emerging tiger. Wherever possible, we have identified key points on Vietnam's taxation systems, information on Human Resources, and laws and changes in legislation that will affect businesses in the future.

As your trusted financial partner, HSBC in Vietnam is always looking for ways to help your business to grow. I hope this guide will help you on your journey to establishing a profitable venture in Vietnam and I wish you health, wealth and prosperity in your endeavours.



**Sumit Dutta**  
CEO





# Introduction

## Doing business in Vietnam

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

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

As a member of the World Trading Organisation ('WTO'), Vietnam must continue to improve its business and investment environment and bolster its legal system to meet WTO's requirements. Vietnam has made significant efforts to ensure that

foreign investors are not disadvantaged compared to their local counterparts, including an overhaul of the legal framework governing investments and protection of intellectual property. Furthermore, the government has taken measures to simplify administrative procedures for areas such as import and export, company establishment and making tax payments.

Despite these measures, there remains a host of regulatory issues that must be considered by foreign investors coming into Vietnam. However, foreign investment in Vietnam continues to grow, and the Government shows its commitment to market-oriented reforms through its ongoing efforts to attract foreign direct investment.





# Conducting business in Vietnam

## Forms of Investment

Under the Law on Enterprises, a foreign entity may establish its presence in Vietnam as a limited-liability company with one or more members, a joint-stock company, or a partnership.

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

### Form of Business

#### 1. Limited-liability company

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

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

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

- a 100% foreign-owned enterprise (where all members are foreign investors); or
- a foreign-invested joint-venture enterprise between foreign investors and at least one domestic investor.

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

#### 2. Joint-stock company

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

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

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



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

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

#### 2. Partnership

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

### Other Structures for Business and Investment in Vietnam

#### 1. Branches

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



In practice, in recent years the establishment of branches of foreign entities in Vietnam has been restricted by Vietnamese authorities.

## 2. Representative offices

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

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

However, a representative office is permitted to:

- act as a liaison office to observe the business environment;
- search for trade and/or investment opportunities and partners;
- supervise and accelerate the implementation of contracts entered into by its head office;
- act on behalf of the head office to supervise and direct the implementation of projects in Vietnam.

## 3. Business cooperation contract (BCC)

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

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

## 4. Build-operate-transfer ('BOT'), Build-transfer ('BT') and Build-transfer-operate ('BTO') Contracts

Foreign investors may sign BOT, BT and BTO contracts with a competent State body to implement infrastructure construction projects in Vietnam. Typically, the contracts are for projects in the fields of transportation, electricity production, water supply, drainage and waste treatment.

The rights and obligations of the foreign investor will be regulated by the signed BOT, BT and BTO contract.

Under a decree dated 5 April 2011 on BOT, BTO, and BT contracts, the Government encourages both public- and

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

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

- Roads, bridges, tunnels, and ferry landings;
- Railway bridges and railway tunnels;
- Airports, seaports and river ports;
- Clean water supply systems; sewage systems;
- Wastewater, waste collecting and handling systems;
- Power plants and power transmission lines;
- Infrastructure works of health service, education, training, career training, culture, sport and offices of State agencies; and
- Other projects as may be determined by the Prime Minister.





# Taxation in Vietnam

## Corporation Income Tax

### Scope

An enterprise established under the law of Vietnam must pay tax on its worldwide income.

A foreign enterprise with a permanent establishment in Vietnam must pay tax on all income arising in Vietnam and on foreign income that relates to the permanent establishment.

A foreign enterprise without a permanent establishment in Vietnam must pay tax only on income arising in Vietnam.

A permanent establishment in Vietnam is a place for production and/or the entity's business activities, which can be in the form of:

- Branches, plants and a location in Vietnam where natural resources are mined;
- Construction sites;
- Establishments providing services;
- Agents; and
- Representatives.

### Tax rate

Taxpayers are subject to the tax rates imposed under the Corporate Income Tax ('CIT') Law. The standard CIT rate is currently 25%.

Enterprises operating in the oil and gas industry are subject to CIT rates ranging from 32% to 50%, depending on the project.

### Administration

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

Final CIT returns are filed annually. The annual CIT return must be filed and submitted within 90 days following the fiscal year end. Any outstanding tax payable must be paid at the same time when the annual CIT return is submitted.

The default CIT tax year is the calendar year. However, different tax and accounting year ends can be used if approval is obtained from the Ministry of Finance.

### Taxable Profit

Taxable profit is the difference between total revenue, whether domestic or foreign sourced, and deductible expenses, plus other assessable income.

Taxpayers are required to prepare an annual CIT return which includes a section for making adjustments between accounting profits and taxable profits.

### Deductible expenses

Expenses which relate to the generation of revenue and which are properly supported by suitable documentation are tax deductible, unless specifically disallowed by the legislation.



### Non-deductible expenses

Certain expenses are classified as non-deductible.

Examples of non-deductible expenses include:

- Employee remuneration expenses which are not actually paid or are not stated in a labour contract or collective labour agreement;
- Interest on loans corresponding to any portion of charter capital not yet contributed;
- Interest on loans from non-economic and non-credit organisations exceeding 1.5 times the interest rate set by the State Bank of Vietnam;
- Provisions for stock devaluation, bad debts, financial investment losses, product warranties, or construction work which are not in accordance with the prevailing regulations;
- Advertising, promotion (except certain items), fees to attend conferences or parties;
- Commissions, prompt payment discounts exceeding 10% of total other deductible expenses (this cap is increased to 15% for newly-established enterprises for the first 3 operating years);
- Unrealised foreign exchange losses due to the revaluation of foreign currency items other than account payables at the end of a financial year; and
- Administrative penalties and fines.

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

### Capital Gains – Capital Assignment Profits Tax

Gains on transfers of interests (as opposed to securities) in a foreign-invested or Vietnamese enterprise are subject to capital assignment profits tax ('CAPT') at 25%.

The taxable gain is determined as the excess of the sale proceeds over the original cost (or the initial value of contributed charter capital for the first transfer) less transfer expenses.

Transfers of securities (bonds, shares of public joint stock companies, etc.) are subject to CIT on a deemed basis at 0.1%, from 1st August - 31st December 2011, CIT rate is reduced by 0.05%, of the total value of the disposal proceeds.

### Withholding Tax

Withholding tax applies to payments of interest, royalties, licence fees, foreign contractors' fees, cross-border leases, insurance/reinsurance, airline and express delivery charges.

### Dividends

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

### Interest

An interest withholding tax of 10% applies to interest paid on loans from foreign entities. Offshore loans provided by certain Government or semi-Government institutions may be eligible for an exemption from the interest withholding tax where a relevant double taxation agreement or inter-governmental agreement applies (see the double tax agreements section below for more details).

Interest earned from bonds (except for tax-exempt bonds) and certificates of deposit is subject to 10% withholding tax.

Interest earned from bonds (except for tax-exempt bonds) and certificates of deposit is subject to 10% withholding tax.

### Royalties, licence fees, etc.

A 10% royalty withholding tax applies to payments made to a foreign party for transfers of technology, which is a very broadly defined category.

### Payments to foreign contractors

A foreign contractor withholding tax ('FCWT') applies to payments to foreign contractors where a Vietnamese contracting party (including foreign-owned enterprises) contracts with a foreign party that does not have a licensed presence in Vietnam.





This FCWT, which includes a value-added tax ('VAT') element and a CIT element, generally applies to payments derived in Vietnam for services provided in Vietnam and overseas. Pure supply of goods, services performed and consumed outside Vietnam, and various other services performed wholly outside Vietnam (e.g. certain repairs, training, advertising, promotion etc.) are exempt from FCWT.

Foreign contractors can choose between three methods for FCWT, which are as follows:

*Method One  
– Deduction Method*

Foreign contractors can register for VAT and follow the conventional VAT deduction method, provided they meet the requirements below:

- they have a permanent establishment ('PE') or are tax residents in Vietnam;
- the duration of the project in Vietnam is more than 182 days; and
- they adopt the full Vietnamese Accounting System ('VAS').

If the foreign contractor carries out many projects, and qualifies for application of the deduction method for one project, the contractor is required to apply the deduction method for its other projects as well.

The foreign contractor will pay CIT at 25% on its net profits.

*Method Two – Direct Method*

Direct method foreign contractors do not register for VAT. VAT and CIT will be withheld by the Vietnamese contracting party at deemed percentages of the taxable turnover. Various rates are specified according to the nature of the services performed.

The VAT withheld by the contracting party is generally an allowable input credit in the Vietnamese contracting party's VAT return.

*Method Three – Hybrid Method*

The hybrid method allows foreign contractors to register for VAT and accordingly pay VAT based on the conventional method (i.e. output VAT less input VAT), but with CIT continuing to be subject to the deemed rates (opposite).

Foreign contractors wishing to adopt the hybrid method must:

- Have a PE in Vietnam or be tax residents in Vietnam;
- Operate in Vietnam under a contract with a term for more than 182 days; and
- Maintain accounting records in accordance with the accounting regulations and guidance of the Ministry of Finance.

The VAT and CIT rates are summarised below:

Activity	Effective VAT rate (%)	Deemed CIT rate (%)
Trading: distribution, supply of goods, materials, machinery and equipment supplied together with services in Vietnam	Exempt*	1
Services	5	5
Services together with supply of machinery and equipment	3	2
Construction, installation** without supply of materials or machinery, equipment	5	2
Construction, installation** with supply of materials or machinery, equipment	3	2
Leasing of machinery and equipment	5	5
Leasing of aircraft, vessels (including components)	Not specified	2
Transportation	3	2
Interest	Exempt	10
Royalties	Exempt	10
Insurance	Exempt	2
Transfer of securities	Exempt	0.1
Manufacturing, other business activities	3	2

\* Provided that import VAT is paid  
\*\* Relates to VAT only



### Double Tax Agreements ('DTAs')

The withholding taxes in the table on page 17 may be affected by relevant DTAs. For example, the deemed CIT on foreign contractors may be eliminated or reduced through a relevant DTA.

Vietnam has signed more than 60 DTAs and others are at various stages of implementation and negotiation. The agreements in force include those with Australia, France, Germany, Japan, Korea, Malaysia, the Netherlands, Singapore, Thailand, Hong Kong and the United Kingdom. Notably absent is a DTA with the United States of America.

### Tax Incentives

Tax incentives are granted for certain regulated encouraged sectors and difficult socio-economic locations.

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

Two preferential CIT rates of 10% and 20% are available for 15 years and 10 years

respectively, starting from the commencement of operating activities. When the preferential rate expires, the CIT rate reverts to the standard rate.

Taxpayers may be eligible for tax holidays and reductions. The holidays take the form of a complete exemption from CIT for a certain period beginning immediately after the enterprise first makes profits, followed by a period where tax is charged at 50% of the applicable rate. However, where the enterprise has not derived profits within 3 years of the commencement of operations, the tax holiday/ tax reduction will start from the fourth year of operation. Criteria for eligibility to these holidays and reductions are set out in the CIT regulations.

Tax incentives do not apply to 'other income', which is broadly defined.

### Tax Losses

Taxpayers may carry forward tax losses fully and consecutively for a maximum of five years.

Losses of non-incentivised activities can be offset against profits from incentivised activities, and vice versa.

Carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

### Transfer Pricing

Vietnam has transfer pricing regulations which outline various situations where transactions will be considered as being between related parties and the mechanisms for determining the market 'arm's length' transaction value (comparable uncontrolled price, cost plus, resale price, comparable profits and profit split).

Under the wide-ranging definition of associated parties, the control threshold is lower than in many other countries (20%). The definition also extends to certain significant supplier, customer and funding relationships between otherwise unrelated parties.

Compliance requirements include an annual declaration of related-party transactions and transfer pricing methodologies used. Specified documents must be filed together with the annual CIT return.

Companies which have related-party transactions must prepare and maintain contemporaneous transfer pricing documentation.

## VAT

### Scope of application

Value-added tax ('VAT') applies to goods and services used for production, trading and consumption in Vietnam (including goods and services purchased from abroad). In each case the business must charge VAT on the value of goods or services supplied.

VAT payable is calculated as the output VAT charged to customers less the input tax suffered on purchases of goods and services.

For input tax to be creditable, the taxpayer must obtain a proper VAT invoice from the supplier. Entities in Vietnam can use pre-printed invoices, self-printed invoices or electronic invoices. The tax invoice template must contain certain required items and must be registered with the local tax authorities.

There are stipulated categories of VAT exemptions:

- Certain agricultural products;
- Imported leased drilling rigs, aeroplanes and ships of a type which cannot be produced in Vietnam;
- Transfer of land use rights;
- Financial derivatives and credit services; certain insurance services (including life and non-commercial insurance);

- Medical services;
- Teaching and training;
- Printing and publishing of newspapers, magazines, and certain types of books;
- Certain cultural, artistic, sport services/products;
- Passenger transport by public buses;
- Transfer of technology and software services, except exported software which is entitled to 0% rate;
- Gold imported in pieces which have not been processed into jewellery;
- Exported unprocessed mineral products such as crude oil, rock, sand, rare soil, rare stones, etc;
- Imports of machinery, equipment and special means of transport which are directly for use in technology research and development activities and which cannot be made in Vietnam;
- Equipment, machinery, spare parts, specialised means of transportation and necessary materials used for prospecting, exploration and development of oil and gas fields (which cannot be produced in Vietnam); and
- Goods imported in the following cases: international non-refundable aid, including from Official Development Aid, foreign donations to government bodies and to individuals (subject to limitations).





Rates of tax

There are three VAT rates, as shown in the table below. When a supply cannot be readily classified based on the tax tariff, VAT must be calculated based on the highest rate applicable for the particular range of goods which the business supplies.

Imported goods

In addition, VAT is levied on imported goods.

VAT is calculated on the import dutiable price plus import duty plus special sales

tax (if applicable). The importer must pay VAT to Customs at the same time that they pay import duties.

Exported services

Services rendered to foreign companies, including companies in non-tariff areas, will be subject to 0% VAT if the following conditions are met:

- The foreign company has no permanent establishment ('PE') in Vietnam (PE is not defined in the VAT regulations and the definition under the domestic CIT regulations will apply in this respect); and

- The foreign company is not a VAT registrant or payer in Vietnam.

Various supporting documents are required in order to apply 0% VAT to exported goods and services, e.g., contracts, evidence of payment via bank transfer, customs declaration (for exported goods only).

Input tax credits

Input credits can be claimed in the month in which the invoice is issued. For imports, input credits are based on the date of payment to the Customs office. Input credits can be

declared and claimed within 6 months from the month in which they arise.

If a business sells exempt goods or services, it cannot recover any input tax paid on its purchases.

This contrasts with the application of 0% VAT, where the sales are within the VAT system (albeit at a VAT rate of zero), and hence input tax can be recovered.

Where a business generates both taxable and exempt sales, it can only claim an input tax credit for the portion of inputs used in the taxable activity.

Administration

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

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

Taxpayers paying tax under the deduction method are not required to lodge an annual VAT finalisation or reconciliation.

Tax rates (%)	Activity
0	This rate applies to exported goods including goods sold to enterprises without permanent establishments in Vietnam (including companies in non-tariff zones), goods processed for export, goods sold to duty free shops, exported services, construction and installation carried out abroad or for export processing enterprises, aviation, marine and international transportation services/export goods & services/construction or installation for Export Processing Enterprise's Fixed Assets..
5	This rate applies generally to areas of the economy concerned with the provision of essential goods and services. This includes: <ul style="list-style-type: none"><li>• clean water;</li><li>• fertiliser production;</li><li>• teaching aids;</li><li>• certain books;</li><li>• foodstuffs;</li><li>• medicine and medical equipment;</li><li>• husbandry feed; various agricultural products and services,</li><li>• technical/scientific services;</li><li>• rubber latex;</li><li>• sugar and its by-products.</li></ul>
10	This 'standard' rate applies to activities not specified as exempt or subject to the 0% or 5% rates.





# Other Taxes

## Import and Export Duties

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

Import duty rates are classified into 3 categories:

1. Ordinary rates;
2. Preferential rates – applicable to imported goods from countries that have Most Favoured Nation (MFN, also known as Normal Trade Relations) status with Vietnam. The MFN rates are in accordance with Vietnam's WTO commitments and are applicable to goods imported from other member countries of the WTO; and
3. Special preferential rates – applicable to imported goods from countries that have a special preferential trade agreement with Vietnam.

Also, as part of the Association of Southeast Asian Nations ('ASEAN'), Vietnam has special preferential trade agreements with:

- China;
- Korea;
- Japan;
- Australia;
- New Zealand; and
- India (signed but not yet in force).

To be eligible for preferential rates or special preferential rates, the imported goods must be accompanied by an appropriate Certificate of Origin ('C/O'). Without such a C/O,

or when goods are sourced from non-preferential treatment countries, the ordinary rate (being the MFN rate with a 50% surcharge) is imposed.

### Special Sales Tax ('SST')

SST is a form of excise tax that applies to the production or import of certain goods and the provision of certain services. Goods and services that are subject to SST are also subject to VAT.

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

1. Commodities – cigarettes, liquor, beer, automobiles having less than 24 seats, motorcycles, airplanes, boats, petrol, air-conditioners up to 90,000 BTU, playing cards, votive papers; and
2. Service activities – discotheque, massage, karaoke, casino, gambling, golf clubs, entertainment with betting and lotteries.

### Natural Resources Tax

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

The tax rates vary depending on the natural resource being

exploited and are applied to the production output at a specified taxable value per unit.

Various methods are available for the calculation of the taxable value of the resources, including cases where the commercial value of the resources cannot be determined.

### Property Tax

Land in Vietnam is owned by the state, meaning that users of land are required to acquire or rent land use rights from the government.

Foreign investors requiring land for their operations in Vietnam will pay a rental fee to the government, which is in effect a form of property tax.

The amounts of the land use right rental fees vary depending upon the location, infrastructure and the industrial sector in which the business is operating.

### Environmental Protection Tax

A law on environmental protection tax takes effect from 1 January 2012.

The environment protection tax is an indirect tax which is applicable to the production and importation of certain goods including petroleum products.





# Personal Income Tax ('PIT')

## Scope

For individual tax purposes, Vietnam residents are those individuals residing in Vietnam for 183 days or more in a calendar year, or in 12 consecutive months from the first date of arrival.

Vietnam residents also include those having a permanent residence in Vietnam (including, in the case of foreigners, a registered residence which is recorded on the permanent or temporary residence card).

Where an individual stays in Vietnam for more than 90 days but less than 183 days in a tax year, the individual will be treated as a tax non-resident if he or she can prove that they are tax resident of another country.

Tax residents are subject to Vietnamese PIT on their worldwide taxable income, wherever it is paid or received. Employment income is taxed on a graduated tax rates basis. Non-employment income is taxed at a variety of different rates.

Individuals not meeting the conditions for being tax residents are considered tax non-residents in Vietnam.

Non-residents are subject to PIT at a flat tax rate of 20% on the income received as a result of working in Vietnam in the tax year, and at various other rates on their non-employment

income. However, this will need to be considered in light of the provisions of any DTA that might apply.

## Personal income tax rates

Residents – employment income

Annual Taxable Income (million VND)	Monthly Taxable Income (million VND)	Tax rate %
0 – 60	0 – 5	5
60 – 120	5 – 10	10
120 – 216	10 – 18	15
216 – 384	18 – 32	20
384 – 624	32 – 52	25
624 – 960	52 – 80	30
More than 960	More than 80	35

## Tax declarations and payment

For employment income, tax has to be declared and paid provisionally on a monthly basis by the 20th day of the following month.

The amounts paid are reconciled to the total tax liability at year-end.

Expatriate employees are also required to carry out a PIT finalisation on termination of their Vietnamese assignments before exiting Vietnam. Tax refunds due to excess tax payments are only available to those who have a tax code.

For non-employment income, the individual is required to declare and pay PIT in relation to each type of taxable non-employment income. The PIT regulations require income to be declared and tax to be paid on a regular basis, often each time income is received.

## Taxable Income

### Employment income

The definition of the taxable employment income is broad and includes all cash remuneration and benefits-in-kind. However, there are a limited number of items that are not subject to tax.

## Non-employment income

Taxable non-employment income includes:

- Business income (e.g. rental income);
- Investment income (e.g. interest, dividends);
- Gains on sale of shares;
- Gains on sale of real estate; and
- Inheritances in excess of VND10 million.

## Social, Health and Unemployment Insurance

Social insurance ('SI') and unemployment Insurance ('UI') contributions are applicable to Vietnamese individuals only. Health insurance ('HI') contributions are required for Vietnamese and foreign individuals that are employed under Vietnam labour contracts.

SI/HI/UI contributions are as follows:

	SI	HI	UI
Employee	7%	1.5%	1%
Employer	16%	3%	1%

The amount of employment income subject to SI/HI/UI contributions is the amount stated in the labour contract, capped at 20 times the minimum salary (current minimum salary is VND 1,400,000 - 2,000,000 per month).

Statutory SI, HI and UI employer contributions do not constitute a taxable benefit to the employee. The employee contributions are deductible for PIT purposes.

## Other Taxes

Numerous other fees and taxes can apply in Vietnam, including business license tax and stamp duty or registration fees.

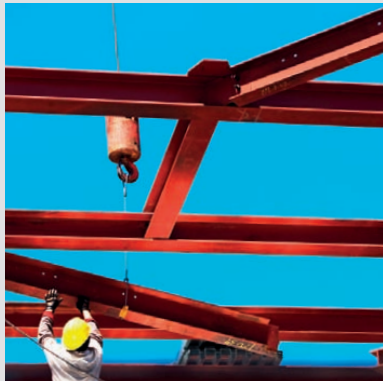
## Tax Audits and Penalties

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

There are detailed regulations setting out penalties for various tax offences. These range from relatively minor administrative

penalties through to tax penalties amounting to various multiples of the additional tax assessed.

The general statute of limitations for posing penalties is 5 years. The tax authorities can collect under-declared and unpaid tax at any time.





### Audit and Accountancy

Foreign-invested business entities are generally required to adopt the Vietnamese Accounting System ('VAS'). If a company strictly follows the VAS, registration with the Ministry of Finance ('MoF') is not required. However, if the VAS is modified, a written approval from the MoF is required before implementation.

Accounting records are required to be maintained in Vietnamese dong. Accounting records are required to be written in Vietnamese, although a commonly-used foreign language can be used at the same time along with the Vietnamese language. At the end of the fiscal year, an entity must perform a physical count of its fixed assets.

The annual financial statements of all foreign-invested business entities must be audited by an independent auditing company operating in Vietnam. Audited annual financial statements must be completed within 90 days from the end of the year. These financial statements should be filed with the applicable licensing body, Ministry of Finance, local tax authority, Department of Statistics, and other local authorities as required by law. Vietnam has issued 26

accounting standards and 37 auditing standards which are primarily based on international standards, but with some local modifications.

Certain provincial tax authorities have used non-compliance with VAS as a mechanism to collect additional tax. Such action is supported by the tax regulations. Measures that the tax authorities can take in order to penalise non-compliance include:

- the disallowance of input VAT credits (not just in the case of VAT refunds);
- the withdrawal of CIT incentives;
- a change of the method for the application of CIT; and
- assessment of CIT on a deemed basis.





# Human Resources and Employment Law

Vietnam's population is estimated at approximately 88 million and is expected to grow with an annual growth rate of 1.3%. Around 60% of the population are under 25 years of age. Approximately 15% of the population are considered to be trained or skilled workers (with elementary qualifications or higher).

The Labour Code issued in July 1994 (as amended in 2002, 2006 and 2007) creates a legal framework that sets out, amongst other things, the rights and obligations of employers and employees with respect to working hours, labour agreements, payment of social insurance, overtime, strikes, and termination of employment contracts. In addition, there are specific implementing decrees and circulars guiding the provisions of the Labour Code.

The law provides for an 8-hour working day and a 48-hour working week. An employer and an employee may agree that an employee works overtime, provided that the total overtime worked does not exceed 200 hours per year.

In an employment contract, wages and salaries should be defined in Vietnamese dong (except for employees working for foreign representative offices and branches whose salaries are quoted in US dollars and paid in Vietnamese dong). The wages of employees working in foreign-invested enterprises are subject to minimum rates determined by the Ministry of Labour, War Invalids (i.e. disabled war veterans) and Social Affairs from time to time.





# Trade

## Trade and Competition

Upon Vietnam's accession to the WTO in 2007, the services market in Vietnam has been liberalised in certain areas, including the trading of goods. Under Vietnamese law, the trading of goods covers the following areas:

- 'Right to import' refers to the rights to import goods into Vietnam for sale to business entities that themselves have the right to distribute the goods in Vietnam. The import right does not include the right to organise or participate in the distribution of goods in Vietnam.
- 'Right to export' refers to the right to purchase goods in Vietnam for export. The export right does not include the right to organise a network of collecting and purchasing goods in Vietnam for export.
- 'Distribution right' means the right to directly undertake activities of distribution, consisting of:
  - (i) being an agent for the purchase and sale of goods;
  - (ii) wholesale distribution;
  - (iii) retail distribution; or
  - (iv) franchising.

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

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

The establishment of pure trading or distribution businesses not associated with manufacturing activities using foreign-invested capital was restricted before Vietnam joined the WTO. However, in accordance with Vietnam's intention to open up its markets since joining the WTO, the restrictions on the set up of such pure trading businesses have been gradually removed.

The law currently permits 100% foreign-owned enterprises to undertake distribution activities by operating one retail outlet only.



In practice, as the Vietnamese government wishes to protect domestic enterprises, retail business by foreign investors in Vietnam is limited. An application for the establishment of multiple retail outlets will be carefully considered by the licensing authorities based on an Economic Need Test ('ENT'), which considers the following criteria:

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

It is at the discretion of the licensing authorities whether or not to allow the establishment of multiple retail outlets.



# Banking in Vietnam

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

Foreign investors in Vietnam may open accounts denominated in the local currency, Vietnamese dong, and may also open accounts denominated in United States dollars.

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

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

In accordance with Vietnam's commitments to the WTO, there is now virtually no difference in the treatment of wholly-owned foreign banks established in Vietnam and local Vietnamese banks.

## Foreign Exchange Control

The local currency, Vietnamese dong, is not freely convertible and the market is still largely dependent on foreign currency, particularly United States dollars. The Government has been implementing measures to gradually reduce the country's dependency on the dollar.

All buying, selling, lending and transfer of foreign currency must be made through banks and other financial institutions authorised by the State Bank of Vietnam ('SBV'). The outflow of foreign currency by transfer is authorised for certain transactions such as payments for imports and services abroad, the refunding of loans contracted abroad and the payment of interest accrued thereon, transfers of profits and dividends, and revenues from the transfer of technology.

As a general rule, all monetary transactions in Vietnam must be undertaken in Vietnamese dong.

Exceptions are applicable to payments for exports made between principals and their agents and payments for goods and services purchased from institutions authorised to receive foreign currency payments, such as payments for air tickets, shipping and air freight, insurance, and international communications.

Foreign-invested enterprises may, subject to certain conditions, buy foreign currency from banks to fulfil certain foreign currency obligations from their transactions. Foreign investors and foreigners working in Vietnam are permitted to transfer abroad capital investment profits and income legally earned in Vietnam and any remaining invested capital upon the liquidation of an investment project.



# Who we are

## The HSBC Group

The HSBC Group is one of the largest banking and financial service organisations in the world, with well-established businesses in Europe, the Asia-Pacific region, the Americas, the Middle East and Africa. HSBC differentiates its brand from its competitors by describing the unique characteristics which distinguish HSBC, summarised by its slogan 'The world's local bank'.

Headquartered in London, the HSBC Group has over 7,500 offices in 87 countries and territories. The Group's total assets are US\$2,455 billion as of 31 December 2010.

## HSBC in Vietnam

In Vietnam, HSBC first opened an office in Saigon (now Ho Chi Minh City) in 1870. In March 1995, HSBC opened a full-service branch in Ho Chi Minh City. In 2005, HSBC opened its second branch in Hanoi and established a representative office in Can Tho.

On 1 January 2009, HSBC became the first foreign bank to incorporate in Vietnam, after gaining approval from the State Bank of Vietnam to set up a wholly foreign-owned bank

in Vietnam in September 2008. The new locally incorporated entity, HSBC Bank (Vietnam) Ltd., is headquartered at the Metropolitan Building, 235 Dong Khoi Street, in Ho Chi Minh City's District 1, with a registered capital of VND3,000 billion.

HSBC's Vietnam network includes 16 branches and transaction offices of which our Head Office, one branch and five transaction offices are located in HCMC; one branch, three transaction offices and one deposit office are located in Hanoi; and four independent branches are located in Binh Duong, Can Tho, Danang and Dong Nai, respectively. HSBC is now the largest foreign bank in Vietnam in terms of investment capital, network, product range, staff and customer base. HSBC's history in Vietnam and knowledge of local culture both reflects and facilitates the bank's commitment to delivering excellence in customer service.

## Awards:

- Best Foreign Bank in Vietnam 2006, 2007, 2008, 2009, 2010, 2011 by FinanceAsia
- The Best Overall Private Bank in Vietnam 2011 awarded by Euromoney



- Best Bank in Vietnam 2006, 2008, 2009, 2010 by the Asset Triple A
- Best Sub-custodian Bank in Vietnam 2008, 2009, 2010 by Global Finance
- Best Consumer Internet Bank in Vietnam 2009, 2010 by Global Finance
- Best Corporate Internet Bank in Vietnam 2011 by Global Finance
- Best Domestic Cash Management Bank in Vietnam 2010, 2011 by Euromoney Poll
- The Best Foreign Cash Management Bank, Best Foreign Transaction Bank in Vietnam 2010 by the Asset Triple A
- Best Trade Finance Bank in Vietnam 2008, 2009 by the Asset Triple A
- Best Sub-custodian Bank in Vietnam 2006, 2009 by the Asset Triple A
- Best for Overall Forex Services in Vietnam 2006, 2007, 2009 by Asiamoney FX Poll
- Best for Innovative FX Products and Structured Ideas 2009 by Asiamoney FX Poll
- Certificate of Merit for 15 years of Excellence in Banking by State Bank of Vietnam

### Corporate responsibility

Corporate Sustainability has always been at the heart of our business. In line with the HSBC Group strategy for a sustainable development, since 1992 HSBC in Vietnam has sponsored and organised many innovative community-oriented initiatives and encouraged bank staff to become actively involved in all our CS projects. HSBC has continued its community support efforts, focusing mainly, though not exclusively, on education and the environment. This demonstrates HSBC's strong commitment to the community in which the bank is operating. We understand that being a sustainable business helps us build lasting relationships with our customers, gains the confidence of investors and supports our brand in being one of the world's leading financial institutions.

- We apply clear policies and processes to manage potential social and environmental risk in our lending and other financial activities in sensitive sectors.
- We make every effort to reduce our carbon footprint and share best practices with our clients and stakeholders.

Our activities to promote education include Future First, HSBC's Global Education Trust's five-year programme (2007-2012) to offer education, livelihood training and rehabilitation to street children, children in care and orphans around the world. HSBC in Vietnam coordinates with in-country NGOs to find projects that will most benefit these children in Vietnam.

We are also the very first financial organisation in Vietnam to run programmes to improve the standard of banking and financial knowledge among local people. By offering innovative, tailor-made financial training schemes that equip Vietnamese people with a strong financial planning capability, we hope to contribute to the creation of a platform for the sustainable development of the economy.

Our environmental programme is closely linked to the HSBC Climate Partnership, a five-year partnership between HSBC and The Climate Group, Earthwatch Institute, Smithsonian Tropical Research Institute and WWF. HSBC's US\$100 million investment – the largest ever corporate donation to each

of these four world-class environmental charities – aims to combat the urgent threat of climate change by inspiring action by individuals, businesses and governments worldwide. In Vietnam, HSBC invested US\$50,000 in the WWF Climate Camp programme to help staff understand the importance of ecology and the impact of the climate change on nearby wetlands, and to implement a number of schemes to help protect the environment in which we all live and work.

We always encourage the entire HSBC staff to play an active role in developing the Bank's philanthropic activities. Staff Working Group, the flagship of our staff engagement programmes, offers the chance for HSBC's employees to explore the needs of the community and devise and execute their own CS projects.

Our employees also play a vital role in other grass root activities, including the Saigon Cyclo Challenge – in which HSBC has been a Gold Sponsor for 11 consecutive years, the annual Fun Run, Earth Hour, and local scholarship programmes for underprivileged youngsters.





# Country overview

Capital city	Hanoi	
Area and population	331 thousand sq km; 87.3m	
Language	Vietnamese	
Currency	Vietnam dong	
International dialling code	+84	
National Holidays for 2012	New Year	1 January
	Lunar New Year	From last two days of the last Lunar month to 3rd day of the first Lunar month
	Hung Kings Commemorations	31 March
	Liberation/Reunification Day	30 April
	International Worker's Day	1 May
	National Day	2 September
Business and banking hours	Generally 8am to 5pm, Monday to Saturday but many banks and businesses now operate extended opening hours	
Stock Exchange	Ho Chi Minh City Stock Exchange Ha Noi Stock Exchange	
Political structure	Vietnam is a socialist country operating under the single-party leadership of the Communist Party. A nationwide congress ('National Congress') of Vietnam's Communist Party is held every five years determining the country's orientation and strategies and adopting its chief policies on solutions for socio-economic development. The National Congress elects the central committee, which in turn elects the politburo.	





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