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International tax

Vietnam Highlights 2013

Investment basics:

Currency – Vietnam Dong (VND)

Foreign exchange control – VND must be used in transactions between Vietnamese entities and individuals unless specifically allowed under the foreign exchange control regulations. A foreign currency can be used as the functional currency for accounting and reporting purposes, subject to certain conditions. Both residents and nonresidents can hold bank accounts in any currency. Foreign currency may be remitted overseas, although registration and/or tax requirements may need to be met.

Accounting principles/financial statements – Vietnamese Accounting Standards and Vietnamese accounting system. Statutory financial statements must be prepared, audited and submitted annually, except for listed companies whose financial statements are required to be audited and submitted on a semi-annual basis.

Principal business entities – These are the joint stock company, limited liability company and private enterprise. Branches of foreign corporations are limited to certain industries.

Corporate taxation:

Residence – Residence is not defined, but a corporation is generally considered to be resident if it is incorporated in Vietnam.

Basis – Residents are taxed on worldwide income; nonresidents are taxed only on Vietnamese-source income. Foreign-source income derived by residents is subject to corporation tax in the same way as Vietnamese-source income.

Taxable income – Tax is imposed on a company's profits, which include the profits of affiliates and branches (dependent units). Taxable revenue includes income from the sale of products, the provision of services, the leasing or sale of assets, the transfer of property, shares or a business, joint venture operations with other economic entities and financial operations.

Taxation of dividends – Dividends paid by a company in Vietnam to its corporate shareholders are not subject to tax.

Capital gains – There is no separate capital gains tax; gains are taxed at the standard corporate tax rate of 25%. The transfer value is based on the actual price according to the transfer contract. A deemed fair market value will be used if no contract price is available or if the price stated in the contract is deemed to be not at arm's length.

Losses – Losses must be carried forward consecutively in full to taxable income for up to a maximum of the five years after the year in which the losses are incurred. The carryback of losses is not permitted.

Rate – The standard corporate rate is 25%. The rate for enterprises operating in the oil and gas and natural resource sectors ranges from 32% to 50%, depending on the project.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax paid may be credited against Vietnamese tax but must be determined based on pretax income. The credit is limited to the amount of Vietnamese tax rate payable on the foreign income.

Participation exemption – See under "Taxation of dividends."

Holding company regime – No

Incentives – Preferential tax rates of 10% and 20% for 15 and 10 years, respectively, are available for taxpayers engaged in encouraged investment projects or in socio-economically disadvantaged locations as stipulated by the government. A tax holiday of up to four years and a 50% tax reduction for up to nine years are available from the first profit-making year or the fourth revenue generation year, whichever comes first.

Withholding tax:

Dividends – No tax is imposed on dividends remitted overseas unless paid to individuals, where a 5% withholding tax is imposed.

Interest – Interest paid to a nonresident is subject to a 5% withholding tax unless the rate is reduced under a tax treaty.

Royalties – Royalties paid to a nonresident are subject to a 10% withholding tax unless the rate is reduced under a tax treaty.

Technical service fees – A withholding tax of 5% (corporate tax) and 5% (VAT) generally applies to technical service fees paid to a nonresident. The corporate tax may be exempt under a tax treaty.

Branch remittance tax – No

Other – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – The municipal authorities levy tax (e.g. land rental, land using fees, etc.) on the use of real property.

Social security – The employer is required to make social insurance (SI), health insurance (HI) and unemployment insurance (UI) contributions of 17%, 3% and 1%, respectively.

Stamp duty – A stamp duty of 0.5%-20% is levied on the ownership of property, including real property.

Transfer tax – No

Other – Foreign Contractor Withholding Tax (FCWT) is imposed on income from the provision of goods and services from overseas organizations (except for pure trading transactions), which comprises corporate income tax and VAT at a total combined rate of 0.1% to 15%.

Anti-avoidance rules:

Transfer pricing – Transfer pricing rules apply. Contemporaneous documentation is required. APAs are not available.

Thin capitalization – No

Controlled foreign companies – No

Other – No

Disclosure requirements – No

Administration and compliance:

Tax year – The tax year is the fiscal year. A company must notify the tax authorities if its fiscal year differs from the calendar year, and in such a case, only a quarter-end fiscal year is allowed.

Consolidated returns – Consolidated returns are not permitted; each company with independent legal status is required to file a separate return. There is no tax relief between independent entities in a group.

Filing requirements – A company must file and pay provisional corporate income tax by the end of the month following the end of each quarter. An annual reconciliation and declaration/filing must be made within 90 days after the fiscal year-end date.

Penalties – Penalties apply for failure to file, late filing or the filing of a fraudulent return.

Rulings – A taxpayer can request a tax ruling from the local or the national tax authorities to clarify its specific tax concerns.

Personal taxation:

Basis – Vietnamese residents are taxed on their worldwide income; nonresidents are taxed only on Vietnamese-source income.

Residence – An individual is resident if he/she: (1) spends 183 days or more in the aggregate in a 12-month period in Vietnam starting from the date the individual arrives in Vietnam; (2) maintains a residence in Vietnam; or (3) has leased a residence from 90 days to less than 183 days in a tax year, unless he/she can prove residence in another country. Condition (3) will be abolished on 1 July 2013.

Filing status – Individuals must file separate returns; joint filing is not permitted.

Taxable income – Employment income, including most employment benefits, whether in cash or in kind, is fully taxable. Dividends, interest (except for bank deposits, life insurance and government bonds), capital gains derived from securities trading, private business income and other income from franchising, inheritance, the transfer of land use rights, and gifts/winnings or prizes also are taxable. Profits derived from the carrying on of a trade or profession generally are taxed in the same way as profits derived by companies.

Capital gains – Gains from a capital assignment and/or securities trading are subject to 0.1% tax on the gross sale, or 20% of net profit.

Deductions and allowances – Subject to certain restrictions, deductions are granted for compulsory social security, i.e. the SI, HI, and UI. Severance allowances and redundancy compensation are not taxable. Other deductions include a personal deduction, a dependent deduction and a deduction for charitable contributions.

Rates – For employment income, progressive rates ranging from 5% to 35% apply to residents, while nonresidents are subject to a flat rate of 20%. Nonemployment income is taxed at rates ranging from 0.1% to 25%.

Other taxes on individuals:

Capital duty – No

Stamp duty – A stamp duty at rates of 0.5%-20% apply on the transfer of property.

Capital acquisitions tax – No

Real property tax – The municipal authorities levy a tax on real estate.

Inheritance/estate tax – Inheritances and gifts are subject to income tax at special rates.

Net wealth/net worth tax – No

Social security – Vietnamese employees are required to make SI, HI and UI contributions at rates of 7%, 1.5% and 1% of the employee's salary, respectively. Expatriates are only subject to HI.

Administration and compliance:

Tax year – Calendar year

Filing and payment – Tax on employment income is withheld by the employer and remitted to the tax authorities. An individual must file a tax return and make a final tax payment by 30 March in the year following the assessment year.

Penalties – Taxpayers are subject to an extra 0.05% for late payment, 10% on under-reported amounts and more stringent penalties for evasion.

Value added tax:

Taxable transactions – VAT and Special Sales Tax (SST) are levied on the sale of goods and the provision of services.

Rates – Rates are 0%, 5% and 10% for VAT, and from 10% to 70% for SST.

Registration – All organizations and individuals carrying on the production or trading of taxable goods and services in Vietnam must register for VAT purposes. Each branch or outlet of an enterprise must register separately and declare tax on its own activities. Transfers of goods between branches may be subject to VAT. Registration for tax payment is required within 10 days of a corporation's establishment date.

Filing and payment – Monthly filing and payment of outstanding VAT must be made on or before the 20th of the following month.

Source of tax law: Law on Corporate Income Tax, Law on Personal Income Tax, Law on Value Added Tax, Law on Special Sales Tax, Social and Health Insurance Laws

Tax treaties: Vietnam has concluded over 60 income tax treaties.

Tax authorities: General Department of Taxation

International organizations: ASEAN, WTO, AFTA, APEC, AKFTA, AJFTA, ACFTA, AIFTA, AANZFTA, VJFTA

Deloitte contact
Thomas McClelland
E-mail: tmcclelland@deloitte.com