

**INTERNATIONAL BAR ASSOCIATION**

**INTRODUCTION ON TAX REGIME 2023**

**VIETNAM**

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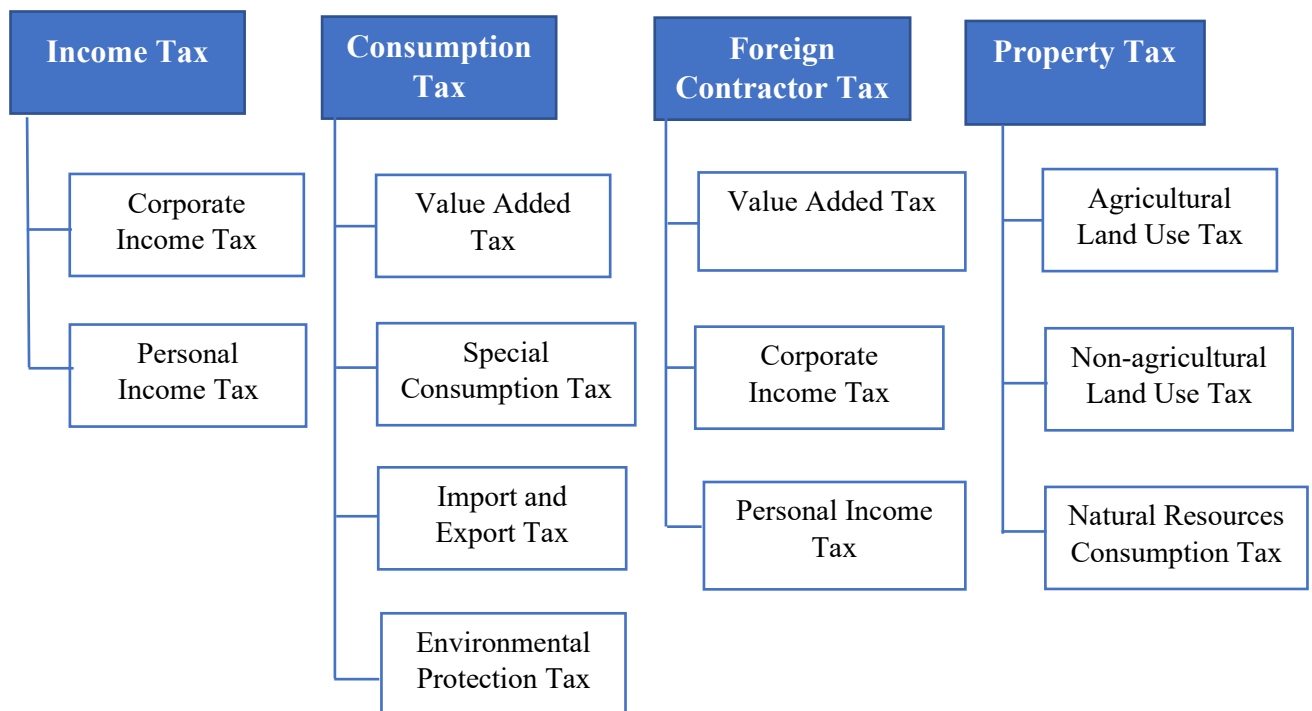
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## I. INTRODUCTION

Under Vietnamese tax law, “Tax” is defined as a compulsory amount payable to the State budget by organizations, households, household businesses, individuals as prescribed by tax laws<sup>1</sup>.

The taxes are promulgated by the National Assembly in Vietnam. The Government and Ministries will accordingly issue legal documents in the form of Decrees and Circulars to provide guidance for implementation.

Below is a diagram of tax regime in the Vietnamese legal system:



## II. INCOME TAX

### 1. Corporate Income Tax (“CIT”)

#### 1.1. Taxpayers

CIT payers are organizations that conduct business in goods and provide services with taxable incomes specified in Article 2.1 of the Law on Corporate Income Tax 2008 (amended and supplemented in 2013) (“**Law on CIT**”), including:

- a) Enterprises that are duly established and operating under the laws of Vietnam;
- b) Any enterprise established under a foreign law, whether it has a permanent establishment in Vietnam or not;

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<sup>1</sup> Article 3.1 of Law on tax administration 2019.

- c) Organizations established under the Law on co-operatives;
- d) Public service units that are duly established under the law of Vietnam;
- e) Other organizations earning income from production/business operations.

## **1.2. Tax rates**

Enterprises, in general, are subject to the tax rate of 20%<sup>2</sup>, except for cases set out as follows:

- a) The CIT rate for oil and gas prospecting, exploration and exploitation activities in Vietnam is from 32% to 50%, depending on the location and conditions for extraction and mine reserve<sup>3</sup>;
- b) Companies engaging in prospecting, exploration and exploitation of certain mineral resource are subject to CIT rates of 50%<sup>4</sup>;
- c) In the case of rare and precious resource mines with 70% of the assigned area or more located in areas with extremely difficult socio-economic conditions on the list of areas eligible for CIT incentives issued together with Decree No. 218/2013/ND-CP, the applied rate is 40%<sup>5</sup>.

## **1.3. Tax incentives**

Under Vietnamese tax laws, CIT incentives are only applicable to enterprises that implement the accounting, invoice and voucher regime and pay CIT according to the declaration<sup>6</sup>.

There are two main CIT incentives as prescribed under Vietnamese laws:

- a) Preferential tax rates;
- b) Tax exemption and reduction.

Each type will be granted for certain period, or for a lifetime of the project and will be applied based on the types of projects, location, industry, investment zone, and other factors.

### **a. Preferential tax rates**

The rates of preferential tax are as follows<sup>7</sup>:

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<sup>2</sup> Article 10.1 of Law on CIT.

<sup>3</sup> Article 10.3 of Decree No. 218/2013/ND-CP.

<sup>4</sup> Article 10.3 of Decree No. 218/2013/ND-CP.

<sup>5</sup> Article 10.3 of Decree No. 218/2013/ND-CP.

<sup>6</sup> Article 18.1 of Consolidated Document No. 26/VBHN-BTC 2015.

<sup>7</sup> Article 15 of Decree No. 128/2013/ND-CP.

- (i) Tax rate of 20% during 10 years;
- (ii) Tax rate of 17% during 10 years;
- (iii) Tax rate of 17% for the lifetime of the project;
- (iv) Tax rate of 15% during 10 years;
- (v) Incentive tax rate of 10% within 15 years;
- (vi) Tax rate of 10% for the lifetime of the project.

Under circumstances, the period for incentives tax may be extended up to 15 more years or 30 more years if the project meeting the criteria as set out by laws<sup>8</sup>.

#### **b. Tax exemption and reduction**

The incentives for tax exemption and reduction period include 03 specific regimes as follows<sup>9</sup>:

- (i) 4 years of tax exemption, 50% reduction of payable CIT amounts for the next 9 years;
- (ii) 4 years of tax exemption, 50% reduction of payable CIT amounts for the next 5 years;
- (iii) 2 years of tax exemption and a 50% reduction in CIT payable for the next 4 years.

The tax exemption and reduction period is calculated continuously from the first year of having taxable income from the new investment project entitled to tax incentives. In case there is no taxable income in the first three years, from the first year of revenue from the new investment project, the tax exemption or reduction period is counted from the fourth year.<sup>10</sup>

#### **1.4. Calculation of 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 to accounting profit to arrive at taxable profit.

#### **1.5. Losses**

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<sup>8</sup> Article 15.5 of Decree No. 128/2013/ND-CP (as supplemented by Article 1.15 of Decree No. 12/2015/ND-CP).

<sup>9</sup> Article 16.1, 16.2, 16.3 of Decree No. 128/2013/ND-CP.

<sup>10</sup> Article 16.4 of Decree No. 218/2013/ND-CP.

Taxpayers may carry forward tax losses fully and consecutively for a maximum of five years, from the year following the year with loss incurred<sup>11</sup>. Losses from production and business activities entitled to CIT incentives shall be offset against profits from production and business activities not entitled to CIT incentives and vice versa. Loss from real estate transfer, investment project transfer shall be offset against profit from production and business activities<sup>12</sup>. Carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

## **2. Personal Income Tax (“PIT”)**

### **2.1. Taxpayers**

PIT payers are<sup>13</sup>:

- a) residents who earn taxable incomes specified under Law on PIT inside and outside the Vietnamese territory; and
- b) non-residents who earn taxable incomes specified under Law on PIT inside the Vietnamese territory

Residents are individuals meeting one of the following criteria<sup>14</sup>:

- a) Being present in Vietnam for 183 days or more in a calendar year or 12 consecutive months counting from the first date of their presence in Vietnam;
- b) Having a place of habitual residence in Vietnam, which is a registered place of permanent residence or a rented house for dwelling in Vietnam under a term rent contract.

Non – residents are individuals not satisfying the criteria as mentioned above<sup>15</sup>.

### **2.2. Taxable incomes**

Taxable incomes of individuals include the following types<sup>16</sup>:

- a) Incomes from production or business activities;
- b) Incomes from salaries or wages receivable by employees from their employers;
- c) Incomes from capital investment;
- d) Incomes from capital transfer;

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<sup>11</sup> Article 7.2 of Decree No. 218/2013/ND-CP.

<sup>12</sup> Article 18.9 of Circular No. 78/2014/TT-BTC.

<sup>13</sup> Article 2.1 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

<sup>14</sup> Article 2.2 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

<sup>15</sup> Article 2.3 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

<sup>16</sup> Article 3 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

- e) Incomes from transfer of real estate;
- f) Incomes from won prizes in cash or in kind;
- g) Incomes from copywriting;
- h) Incomes from commercial franchising under the Commercial Law;
- i) Incomes from inheritances that are securities, capital holdings in economic organizations or business establishments, real estate and other assets subjects to ownership or use registration;
- j) Incomes from gifts that are securities, capital holdings in economic organizations or business establishment, real estate and other assets subject to ownership or use registration.

### **2.3. Tax rates**

Progressive tax rates ranging from 5% to 35% are applied to the employment income of residents<sup>17</sup>. Non-residents are subject to a flat tax rate of 20% on Vietnam-derived employment income<sup>18</sup>.

For other types of taxable incomes, residents will be applied a rate with a range from 0.1% to 20%<sup>19</sup> and the non-residents will be applied a rate with range from 0.1% to 10%<sup>20</sup> as the case may be.

## **III. CONSUMPTION TAX**

### **1. Value Added Tax (“VAT”)**

VAT applies to goods and services used for production, trading and consumption in Vietnam. A number of goods and services are exempt from VAT. Domestic companies must calculate VAT on the value of goods and services sold. In addition, foreign companies located abroad and engaging in business activities in Vietnam or deriving income in Vietnam are also subject to VAT regardless of whether they have a permanent establishment in Vietnam or not.

The VAT Law provides three rates of tax: 0%, 5% and 10%. However, according to Decree No. 44/2023/ND-CP, the VAT rate in 2023 has the following changes: reduce 2% of VAT rate for all goods and services subject to 10% tax rate, and reduce 20% of the percentage rate for calculating VAT for business establishments (including business households and business individuals) when issuing invoices for all goods and services eligible for VAT reduction.

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<sup>17</sup> Article 22.1 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

<sup>18</sup> Article 26.1 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

<sup>19</sup> Article 23.2 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

<sup>20</sup> Article 27 – Article 31 of Consolidated Document No. 15/VBHN-VPQH regarding Law on PIT.

## **2. Special Consumption Tax (“SCT”)**

SCT is a form of excise tax that applies to the production or import of certain goods and the provision of certain services. Imported goods (except for various types of petrol) are subject to SCT at both the import and selling stages. Enterprises that produce or import goods or provide services subject to SCT are required to declare, and pay SCT in addition to VAT.

The Law on SCT classifies items subject to SCT into two groups:

- a) 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;
- b) Service activities: discotheques, massage, karaoke, casinos, gambling, lotteries, golf clubs and entertainment with betting.

The SCT rates will depend on types of goods and services, that the rate will be ranging from 1% to 150%<sup>21</sup>.

## **3. Import and Export Tax**

Import and export tax applies to goods exported and imported across Vietnam’s borders; Goods exported from the domestic market into free trade zones; goods imported from free trade zones into the domestic market; Goods indirectly exported-imported; goods exported and imported by enterprises exercising their right to export, import, or distribute.

Import and export tax rates are subject to frequent changes (normally being updated at the end of a calendar year).

Import tax rates are classified into three categories:

- a) Ordinary rates;
- b) Preferential rates are applicable to imported goods from countries that have the most-favoured-nation (“MFN”) status with Vietnam. The MFN rates are in line with Vietnam’s WTO commitments and are applicable to goods imported from other WTO member countries;
- c) Special preferential rates are applicable to imported goods from countries that have a special preferential trade agreement (FTA) with Vietnam.

The imported items must be accompanied by the proper Certificate of Origin or an origin certification (such as a self-declaration by the exporter) in order to qualify for preferential rates or special preferential rates. Goods from non-favorable or non-

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<sup>21</sup> Article 7 of Consolidated Document No. 08/VBHN-VPQH regarding Law on SCT.

preferential treatment nations are subject to the ordinary rate, which is the MFN rate plus a 50% surcharge.

The export tax rate will be applied based on types of goods as specified under the Export Duty Schedule. For those exported to a country or group of countries or territories having an agreement on concessional export duties with Vietnam, the rates set out under such agreement shall apply<sup>22</sup>.

#### **4. Environment Protection Tax (“EPT”)**

EPT aims to regulate activities that affect the environment and control environmental pollution. EPT is applicable to the production and importation of certain goods deemed detrimental to the environment, the most significant of which are petroleum and coal. The tax rate is ranging from 500 VND/unit to 50,000 VND/unit, based on the types of goods<sup>23</sup>.

### **IV. FOREIGN CONTRACTOR TAX (“FCT”)**

Foreign organizations and foreign individuals, as specified under Circular No. 103/2014/TT-BTC regarding guidelines for fulfillment of tax liability of foreign entities, individuals doing business in Vietnam or earning income in Vietnam (“**Circular No. 103/2014/TT-BTC**”), are subject to FCT. Under Vietnamese laws, FCT is not a separate tax, but is generally a combination of VAT and CIT or VAT and PIT<sup>24</sup>.

The PIT for foreign contractors will be applied according to regulations as prescribed under the laws on personal income tax, while the VAT and CIT will be paid in accordance with provisions under Circular No. 103/2014/TT-BTC<sup>25</sup>.

#### **1. Taxpayers**

FCT payers are including<sup>26</sup>:

- a) Foreign contractors and foreign sub-contractors who meet the requirements as set out under the laws, do business in Vietnam, or earn income in Vietnam. The business is done under the main contract with a Vietnamese entity or another foreign entity doing business in Vietnam under the subcontract;
- b) Organizations established and operated under or registers its operation under Vietnamese law; business entities that purchase services, services attached to goods, or pay income in Vietnam under main contracts or subcontracts; purchase goods in the form of domestic import or under Incoterms; distribute goods or provide services on behalf of foreign entities in Vietnam.

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<sup>22</sup> Article 5.2 of Law on Export and Import Duties 2016.

<sup>23</sup> Article 1.1 of Resolution No. 579/2018/UBTVQH14 on environmental taxes.

<sup>24</sup> Article 5.1, 5.2 of Circular No. 103/2014/TT-BTC.

<sup>25</sup> Id.

<sup>26</sup> Article 4 of Circular No. 103/2014/TT-BTC.



## **2. FCT payment method and rates**

### **2.1. Deduction method**

If paying FCT through the deduction method, the foreign contractors must satisfy the following conditions<sup>27</sup>:

- a) The contractor/subcontractor has a permanent establishment in Vietnam or the contractor/subcontractor is a resident of Vietnam;
- b) The period of business operation on Vietnam under the main contract or subcontract is 183 days or longer from the effective date of the contract.
- c) The contractor/subcontractor applies Vietnam Accounting System, has applied for tax registration and issued with a taxpayer ID number by a tax authority.

The VAT rates and the CIT rates will be applied in accordance with Law on VAT and Law on CIT, together with each guiding documents<sup>28</sup>.

### **2.2. Direct method**

If not meeting the conditions as mentioned in the Section 2.1 above, the foreign contractors will pay FCT in accordance with the fixed rates on revenue<sup>29</sup>.

The foreign contractors are subject to the VAT rate with a range of 2%, 3% and 5%, based on the business activities of the foreign contractors<sup>30</sup>.

The rate of VAT will be applied differently for some specific cases based on the business activities that the foreign contractors perform and the types of business activities<sup>31</sup>.

The CIT rate will depend on the business activities of the foreign contractors, which ranging from 0.1% to 10%<sup>32</sup>.

For some specific cases regarding the number of business activities that the foreign contractors perform and the types of business activities, the rate will be applied differently<sup>33</sup>.

### **2.3. Mixed method**

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<sup>27</sup> Article 8 of Circular No. 103/2014/TT-BTC.

<sup>28</sup> Article 9, Article 10 of Circular No. 103/2014/TT-BTC.

<sup>29</sup> Article 11 of Circular No. 103/2014/TT-BTC.

<sup>30</sup> Article 12.2(a) of Circular No. 103/2014/TT-BTC.

<sup>31</sup> Article 12.2(b) of Circular No. 103/2014/TT-BTC.

<sup>32</sup> Article 13.2(a) of Circular No. 103/2014/TT-BTC.

<sup>33</sup> Article 13.2(b) of Circular No. 103/2014/TT-BTC.

The foreign contractors are entitled to pay FCT through mixed method, which is paying VAT through deduction method and paying CIT through fixed rates on revenue, if meeting the conditions a) and b) in the Section 2.1 above<sup>34</sup>.

## **V. PROPERTY TAX**

### **1. Agricultural Land Use Tax**

Organizations and individuals using land for agricultural production must pay agricultural land use tax. The annual tax rate calculated in kilograms of paddy per 1 hectare of each land class.<sup>35</sup>

### **2. Non-agricultural Land Use Tax**

In addition, owners of houses and apartments have to pay land tax under the law on non-agricultural land use tax. The tax is charged on the specific land area used based on the prescribed price per square meter and progressive tax rates ranging from 0.03% to 0.15%.

### **3. Natural Resources Consumption Tax**

Natural resources tax or severance tax is an indirect tax that individuals and organizations must pay to the State when exploiting tax-liable natural resources. Severance tax bases include natural resource output used for severance tax calculation, severance tax-liable price and severance tax rate with the range from 1% to 40%<sup>36</sup>.

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<sup>34</sup> Article 14 of Circular No. 103/2014/TT-BTC.

<sup>35</sup> Article 9 of Vietnam Law on Agricultural land use tax.

<sup>36</sup> Vietnam Law on Severance Tax.