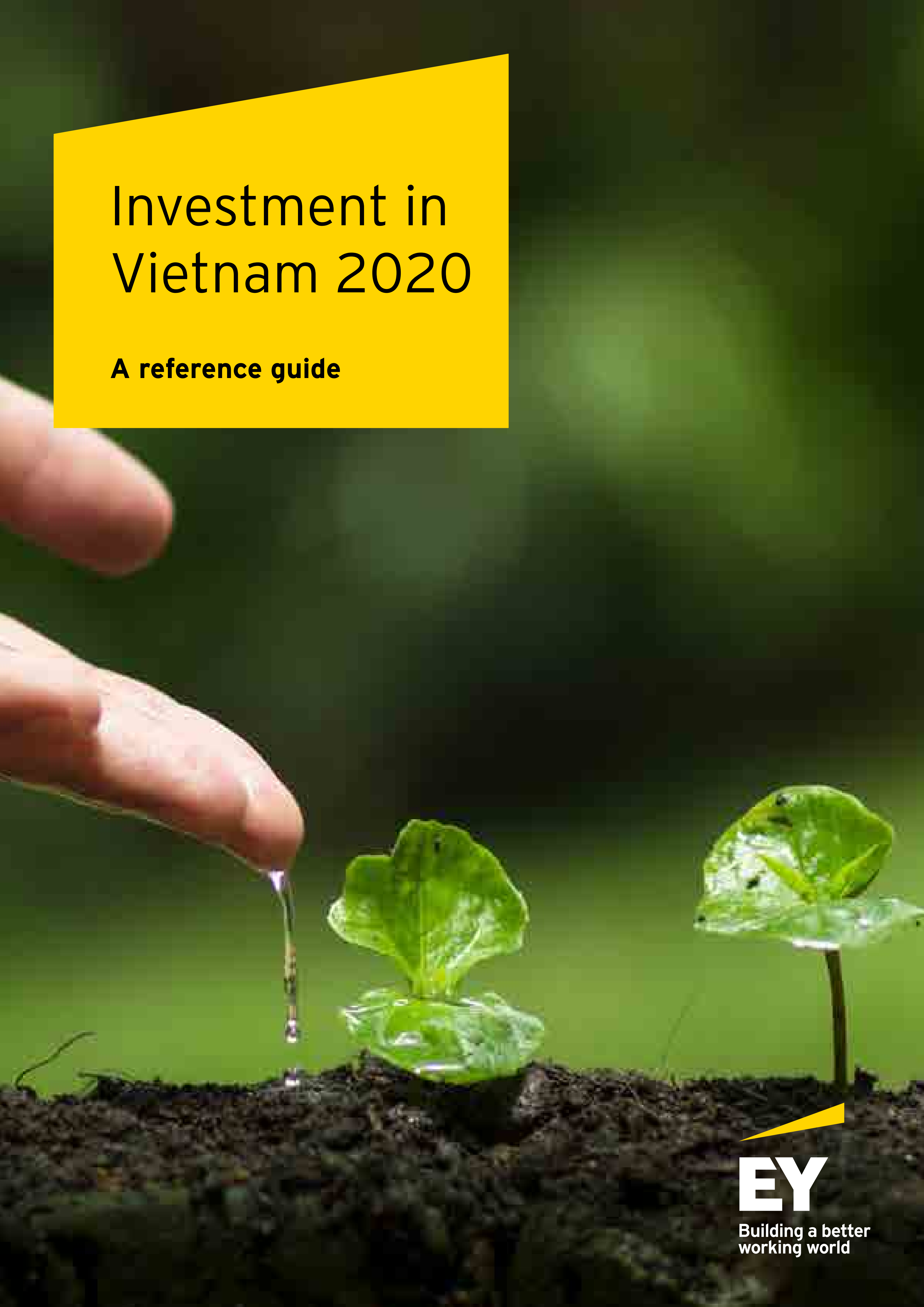
# Investment in Vietnam 2020

**A reference guide**



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# Contents

**Notes**:
This guide provides general advice only and should not be treated as a substitute for legal or professional advice. While care has been taken to ensure that details are correct, no responsibility can be taken for losses arising from reliance upon its contents. The information in this publication is current to March 2020.

# Foreword

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Vietnam is a rapidly developing country with a dynamic and emerging market economy. It is a unique country providing extensive opportunities for those willing to spend time to understand the market. The development builds upon socio-political and macro-economic stability, as well as effective inflation control and improvements in the quality of growth.

In 2019, Vietnam's GDP growth rate hit 7.02% making it one of the top growth performers in the region and the World. Although not without its challenges, Vietnam's economy continues to expand and modernise, and with the opening up of previously restricted industries and sectors to meet WTO commitments and commitments under various FTAs and the CPTPP; opportunities continue to develop.

In view of this development and considerable lesgislative efforts to improve the business and invest environment, this guide aims to help those interested in doing business in Vietnam. It mainly includes investment environment, forms of business organization, taxation, and accounting and auditing practices. This guide does not cover the subject exhaustively, it is however intended to answer some of important questions which potential investors in Vietnam may have. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Vietnam and to obtain the appropriate professional advice.

Although we do our best to ensure that information contained in this guide is current at the time of writing, the rapid changes in Vietnam mean that laws and regulations may change to reflect the new conditions.

Should you require our professional services, we will be willing to meet you and ascertain where we could be best of assistance.

# 01 | Vietnam in figures

331,212 $km^2$
Land area (Approx)

Ha Noi
Capital city

63
Provinces & cities

97.34m (2020)
Population (Approx)

69.1%
Working age

US$2,540 (2019)
Average annual income

US$38.2b (2019)
Total FDI registered capital

3,883 (2019)
New FDI projects

7.02% (2019)
GDP Growth (Approx)

US$265b (2019)
GDP

US$2,715 (2019)
GDP/capita

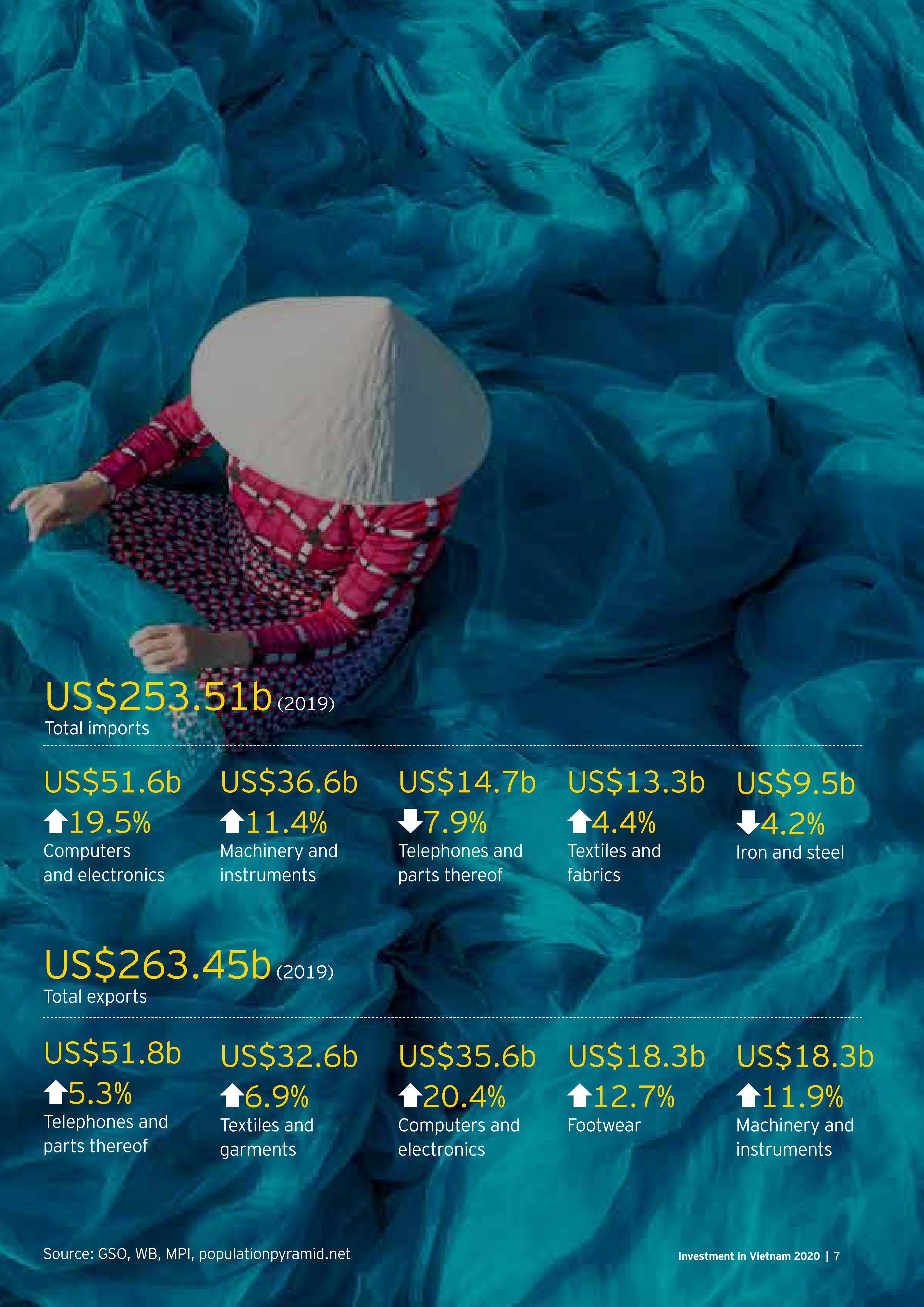
5.6% (Q1, 2020)
Inflation rate

GDP by sector

13.96%
Agriculture

34.49%
Industry

41.64%
Service



US$253.51b (2019)
Total imports

| | | | | |
|---|---|---|---|---|
| US$51.6b | US$36.6b | US$14.7b | US$13.3b | US$9.5b |
| ↑19.5% | ↑11.4% | ↓7.9% | ↑4.4% | ↓4.2% |
| Computers and electronics | Machinery and instruments | Telephones and parts thereof | Textiles and fabrics | Iron and steel |

US$263.45b (2019)
Total exports

| | | | | |
|---|---|---|---|---|
| US$51.8b | US$32.6b | US$35.6b | US$18.3b | US$18.3b |
| ↑5.3% | ↑6.9% | ↑20.4% | ↑12.7% | ↑11.9% |
| Telephones and parts thereof | Textiles and garments | Computers and electronics | Footwear | Machinery and instruments |

Source: GSO, WB, MPI, populationpyramid.net

# 02 Investment in Vietnam

## An Overview

The Investment regulations in Vietnam are regularly reviewed and revised, for the purpose of stimulating the economy and maintaining a rapid and sustainable development. Generally, changes are made to align with the Vietnamese government's goal of enhancing productivity, product quality, efficiency, and competency of Vietnam in both domestic and international markets. The overarching aim is to propel Vietnam's economy forward by participating in high value activities in regional and global production supply chains.

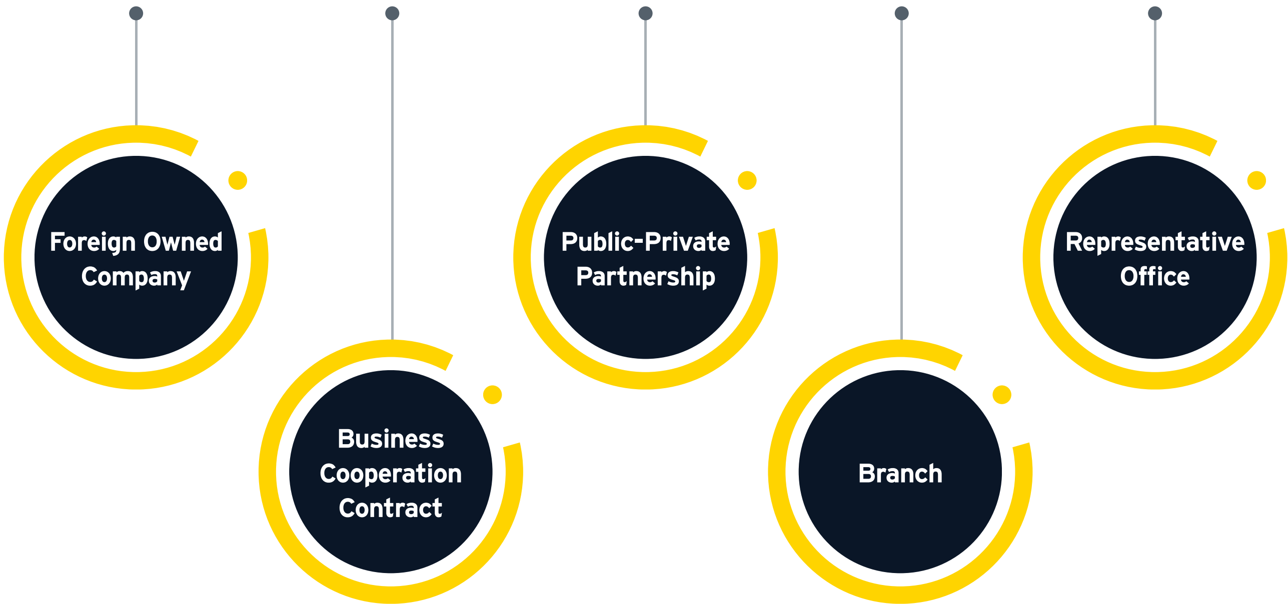
Going forward, **it can be expected that investment incentives, especially incentives to encourage the application of new technology or establishment of Research & Development centers, will continue to play an important role in the Government's economic growth plans for the country.**

The LOI and the LOE generally provide the basic forms of investment and the forms of enterprise for doing business in Vietnam.

# Forms of Investment

The LOI provides for the following basic forms of direct investment.

## Forms of doing business in Vietnam




### Foreign Owned Company

**A foreign investor can wholly or partly own a legal entity set up in Vietnam. A foreign investor can jointly with other foreign investors or Vietnamese investors set up a company in Vietnam. The most common form of business is an LLC or a JSC.** Depending on the sector and the business plans, a certain amount of capital will be required to be invested.

### Business Cooperation Contract

A BCC is an agreement between one or more foreign investors and one or more Vietnamese partners with the objective of cooperating to operate in one or more specific business activities. This form of investment does not constitute a new legal entity and the investors have unlimited liability for the obligations of the BCC.

### Public-Private Partnership

Foreign investors may enter into partnerships with Vietnamese government agencies to implement infrastructure construction projects in Vietnam. The contracts may be in the form of Build – Operate – Transfer; Build – Transfer – Operate; Build – Transfer; Build – Own – Operate; Build – Transfer – Lease; Build – Lease – Transfer; and Operation & Management. These are often in the areas of infrastructure works for transportation, electricity production and trade, healthcare, education, training, agriculture, rural development, water supply or drainage, and wastewater or waste treatment.

### Branch and Representative Office

**Branch**

Foreign business entities can establish a branch in Vietnam as long as they satisfy the requirements set under commercial law. In practice, the branch option is limited to a number of specific sectors, such as law and banking. In general, outside specific sectors, a branch is not an available option for conducting business in Vietnam.

A branch is a dependent unit of a foreign business entity/trader and can directly conduct commercial activities for direct profit-making purposes. The business activities of the branch must be consistent with those of the foreign entity.

**Representative Office**

Foreign traders can apply to establish a RO in Vietnam.

A RO is not permitted to conduct direct profit generating activities, such as execution of contracts, direct payment or receipt of monies, sale or purchase of goods, or provision of services, except for purchase of goods and services that serve the RO's operation.

The operation of a RO should be confined to the liaison activities, market research, and promotion of its head office's businesses.

# Forms of Enterprise

| | Establishment | Ownership | Liability |
|---|---|---|---|
| **Limited Liability Company** | Established by its members by way of capital contribution to the LLC<br>There are two forms of LLC: LLC with one member and LLC with two or more members | Either legal entities or individuals<br>Maximum number of members must not exceed 50 | The members are liable for the financial obligations of the entity to the extent of their capital contributions |
| **Joint Stock Company** | Established by its founding shareholders on the basis of their subscription to shares of the JSC | Required to have at least 3 shareholders<br>No maximum number of shareholders | The shareholders are liable for the financial obligations of the entity to the extent of their share capital contributions |
| **Partnerships** | Established by general partners. A partnership may include limited partners | Required to have at least 2 general partners who must be individuals | General partners have unlimited liability for the obligations of the partnership<br>Limited partners are only liable for the company's debts up to the value of capital contributed to the company |
| **Private enterprise** | Established by a single individual | Owned by a single individual | Owner has unlimited liability for all obligations of the enterprise |

# Investment Incentives

**In Vietnam, investment incentives are granted to both foreign and local investors. These include preferential CIT rate, CIT exemptions and reductions. Other incentives include exemption of import duty on equipment, raw materials, supplies and semi-finished products, exemption from land use fees.** The conditions and requirements for tax incentives are stipulated in the LOI and the CIT regulations. Incentives are available to all taxpayers and are typically claimed through annual tax returns via self-assessment.

**CIT incentives**

The LOE and LOI stipulate that when an investor applies for an IRC, the local licensing authority shall specify the investment incentives granted to that investor as well as conditions for entitlement to the issued IRC. The level of details of such incentives can differ depending on each local licensing authority.

Major tax incentives granted are described below.

**Promoted locations**

**Investment project large scale**

**CIT Incentives**

**Promoted sectors**

**Applicable**

**Preferential CIT rate**
Preferential rates of **10%, 15%** or **17%** for a number of years or up to the entire duration of the investment project

**Tax holidays**
Tax **exemption** (up to **4 years**) and **50%** tax **reduction** (up to **9 years**)

**Specialised industrial products production**

**Applicable**

In general, tax incentives are only applicable to qualifying income. Tax incentives are not applicable to certain income such as gains from capital assignment, income from transfer of real estate, income from transfer of an investment project and income from overseas business operations. Companies can claim these incentives if the stipulated conditions and requirements are met:

**CIT preferential tax rate**

**10%, 15%,** or **17%**

**CIT preferential tax rate duration**

Applies for **10, 15 years** or for entire period of operation from the first year of revenue generation. After the incentive period, the standard CIT rate (currently **20%**) is applied.

**CIT exemption and reduction**

Full CIT exemption followed by **50%** CIT reduction.

**CIT exemption and reduction duration**

**2 or 4 years** of CIT exemption, followed by **4, 5 or 9** years of **50%** CIT reduction.

Generally, tax exemption is triggered once the company is in a taxable position or from the **4th year** of revenue generation, whichever is earlier.

**Qualifying income**

Qualifying income is income generated from an investment projects which are entitled to CIT incentives

## CIT on Expansion Investment

Enterprises who have an existing investment project and are developing it further such as an expansion of scale of their business activities, a renewal of existing technology, or an increase of production capacity (collectively referred to as expansion investment) in promoted sectors or locations are eligible to the CIT incentives if certain conditions are met. The enterprise is allowed to choose either of the following sets of CIT incentives to apply for such expansion investment projects subject to certain conditions:

- The CIT incentives applying to the existing project for the remaining period of that existing project provided that the expansion project operates in similar sectors or locations as the existing project, or
- The same CIT incentives which are applicable to a new investment project except for preferential tax rate (i.e., the enterprise is only entitled to CIT exemption and reduction, no preferential CIT rate is available).

## Import Tax Incentives

Exemptions from import duty are granted for certain goods, including the following key categories:

- Goods temporarily imported, then re-exported, for the purposes of exhibition; cultural, sport or similar events; product research and development, etc. provided they meet certain requirements
- Goods imported to form fixed assets in in centivized locations or business sectors, including machinery and equipment, material and spare parts of this machinery and equipment; specialized means of transportation; and construction materials (that are not available in Vietnam)
- Materials and supplies that are not available in Vietnam and imported in the direct service of production of IT products, software, digital content and education
- Certain goods imported for oil and gas activities
- Certain goods imported for shipbuilding enterprises
- Goods imported/exported serving environmental protection purposes
- Goods imported into the domestic market from non-tariff zones — which are manufactured, processed, recycled, assembled in non-tariff zones without using imported raw materials/components
- Materials, construction materials for manufacturing purposes of high-tech enterprises, science and technology enterprises
- Goods imported to fulfil export processing contracts with foreign entities
- Goods imported for the production for exports.

## Incentives on Land Rental

The Government supports basic infrastructure throughout the country by granting land rental fee exemption incentives to investment projects engaged in infrastructure construction.

Land rental fee exemption is also applicable to investments projects for an exemption period of 3 years or up to the whole duration of the project. Details of investment conditions e.g., projects engaged in sectors eligible for investment promotion; projects in areas with difficult socio-economic conditions; projects engaged in building water-supply constructions etc., entitled to the exemption are listed in the relevant regulations.

Land rental fee reduction is mainly applicable to investments in agriculture.

## Projects located in EPZs or qualifying as EPEs outside of EPZs

Projects located in EPZs and EPEs are eligible for various other tax incentives:

- Exemption from import duties on goods imported and consumed inside EPZs
- No VAT on goods/services traded among EPEs or between EPEs and overseas suppliers/service providers
- No VAT on goods imported for processing/production of exported goods
- Exemption from excise tax and VAT for goods imported into EPZs, goods sold from the local market to EPZs and consumed within EPZs only.

## Focus sectors

Certain sectors have been identified as eligible for the highest level of investment privileges and incentives under the relevant laws and regulations. These include the following:

- Projects investing in high technology production
- Projects investing in supporting industries
- Projects investing in the agricultural sector in rural areas.

# Registration Requirements/ Incorporation Process

Generally domestic investors enjoy a simpler investment/ incorporation process than foreign investors.

**Foreign investors investing in Vietnam for the first time by setting up a FIE must apply for an IRC and ERC.** Industrial sub-licenses will be applicable to certain business sectors.

Depending on whether the FIE's head office is located outside or inside an IP, EPZ, High-Tech Park, the IRC procedures will either be monitored by the provincial/ municipal DPI or the Management Authorities of IP/EPZ/ High-Tech Park, respectively. ERC procedures will be handled by local DPI.

Depending on the location of the RO, the Department of Industry and Trade or the Management Authorities of IP/EPZ/High-Tech Park will grant the RO establishment license. The Ministry of Industry and Trade and/or other industrial management authorities will be involved if evaluation opinions or in-principal approval is required.

# Restructuring, Mergers and Acquisitions

## Restructuring

**Businesses are allowed to restructure their investment by way of division, demerger, merger or consolidation.** The corporate form of business can also be converted into others (e.g., an LLC can be converted into JSC or vice versa).

## Investing in Existing Companies

**Foreign investors may contribute additional capital or buy newly issued shares of existing business organizations or acquire the same from existing shareholders.** Written pre-approvals by the local DPIs are generally required for such transactions.

Specialized laws and regulations may apply to M&A transactions, such as the Law on Securities if the investee companies are public companies, regulations on privatization if the investee companies are state-owned enterprises.

## Capital Contribution, Foreign Exchange Control

Enterprises with foreign-owned capital must open direct investment capital accounts (DICA) denominated in a foreign currency or VND at a bank located and allowed to operate in Vietnam for the purposes of foreign investment activities in Vietnam such as investment capital contribution, transfer of invested capital, profits repatriation and other allowed transactions. All foreign-exchange transactions, such as payments or overseas remittances, must be in accordance with policies set by the SBV.

VND must be used in transactions among Vietnamese entities and individuals, unless specifically allowed under the foreign exchange control regulations.

Enterprises with foreign-owned capital and foreign parties may purchase foreign currencies from a commercial bank to meet the requirements of relevant transactions or other permitted transactions, subject to the documentation requirements by such bank.

The Government may guarantee foreign currency to especially important investment projects or assure the availability of foreign currency to investors in infrastructure facilities and other important projects.

## Dividends Distributions/Profit Repatriation

**Foreign investors are permitted to remit profits after the end of a fiscal year provided that there is no accumulated loss, the investee companies fulfill all financial obligations to the State and submits CIT returns to tax authorities or upon termination of the investment.** Advance notification to the local tax authorities is required.

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# Taxation

## Types of Taxes

Business activities in Vietnam will be subject to the following key taxes:

- Corporate Income Tax
- Value Added Tax
- Foreign Contractor Taxes
- Personal Income Tax
- Social insurance, health insurance and unemployment insurance statutory contribution
- Import and Export Duties
- Business License Tax

The following other taxes may affect certain business sectors:

- Special Sales Tax
- Environment Protection Tax
- Natural Resources Tax

Foreign-invested companies and domestic companies are subject to the same tax regime.

# Types of Taxes

## Corporate Income Tax (CIT)

The standard CIT rate is currently 20%. However, oil and gas companies and companies involved in exploitation of precious minerals are subject to CIT at rates ranging from 32% to 50%, depending on the specific project. Preferential CIT rates of 10%, 15% or 17% may be available to eligible investment projects in industries or locations that are encouraged by the Government.

| CIT | Rate (%) |
|---|---|
| Standard rate | 20 |
| Preferential rates | 10, 15, 17 |
| Specialized industries | 32-50 |

## Taxable Income

The taxable income of an enterprise is the net accounting profits or loss shown in the financial statements, subject to certain tax adjustments due to differences between tax rules and accounting rules (mostly non-deductible expenses). Taxable income includes income derived from business operations and other activities.

## Deductible Expenses

In general, expenses are deductible for CIT purposes provided that they are related to revenue generation, supported by proper invoices/documentation and not specifically identified as being non-deductible by tax regulations. Examples of statutory non-deductible expenses include provisions which are not made in line with regulations, depreciation of fixed assets exceeding the level allowed under the regulations, employment costs without supporting labour contract/ policy, loan interest exceeding the statutory cap, administrative penalties, etc.

Any expense of VND20 million or more, must be settled via a non-cash transaction in order for the expense to be deductible for CIT purposes and for claiming creditable input VAT.

## Tax Depreciation

The following are the minimum and maximum years over which certain categories of assets can be depreciated:

| Assets | Years |
|---|---|
| Intangible assets | Up to 20 |
| Buildings and factories | 5 to 50 |
| Tools and machinery | 3 to 20 |
| Transportation vehicles | 6 to 30 |
| Other fixed assets | 2 to 40 |

Depreciation of fixed assets (which must be valued at least VND30 million) is normally computed using the straight-line method. The MOF has issued guidelines setting forth the minimum and maximum useful lives of various assets that the enterprises must follow. The companies may apply different useful lives only with advance approval of the MOF or the City/Provincial Department of Finance.

A one-off lease payment for land lease rights is not recognized as an intangible asset but is expensed over the life of the lease term.

For cars with nine seats or less, purchased by an enterprise not in the business of passenger transportation, hotels or tourism, the depreciable amount for tax purposes is capped at VND1,600 million.

Depreciation at rates exceeding those allowed by the MOF is not deductible for tax purposes.

## Loss Carryforward

Enterprises that incur losses may carry forward the losses, fully and consecutively, for a maximum of five years, following the respective year when the losses arise (including the years of a tax holiday). The losses are claimed as deductions from taxable income.

The offsetting of losses and profits between group of companies is not allowed.

## Administration

Enterprises must pay provisional quarterly CIT payments within 30 days after the last day of the quarter. Income tax returns only need to be filed annually and submitted together with any balance of income tax due, within 90 days after the end of the tax year. If the provisional quarterly payments are less than 80% of the final CIT liability of the year, the shortfall in excess of 20% of the final CIT liability is subject to late payment interest at a fixed rate of 0.03% per overdue day. The overdue period subject to interest is counted from the next day following the statutory deadline of Quarter 4 provisional CIT payment.

## Capital Gains

Gains derived from sales of shares or disposal of capital are subject to tax at the standard CIT rate. The taxable income on such a transaction is the transfer price less the acquisition cost and transaction costs. The tax authorities have the right to inspect and deem a transfer price where the transfer price is not set at a fair value.

Vietnam imposes tax on gains arising from indirect share transfers, where there is an underlying Vietnamese subsidiary.

If a foreign investor transfers listed securities or shares in a public company, the transfer is taxable at 0.1% of the total sale proceeds, regardless of whether or not the transfer is profitable.

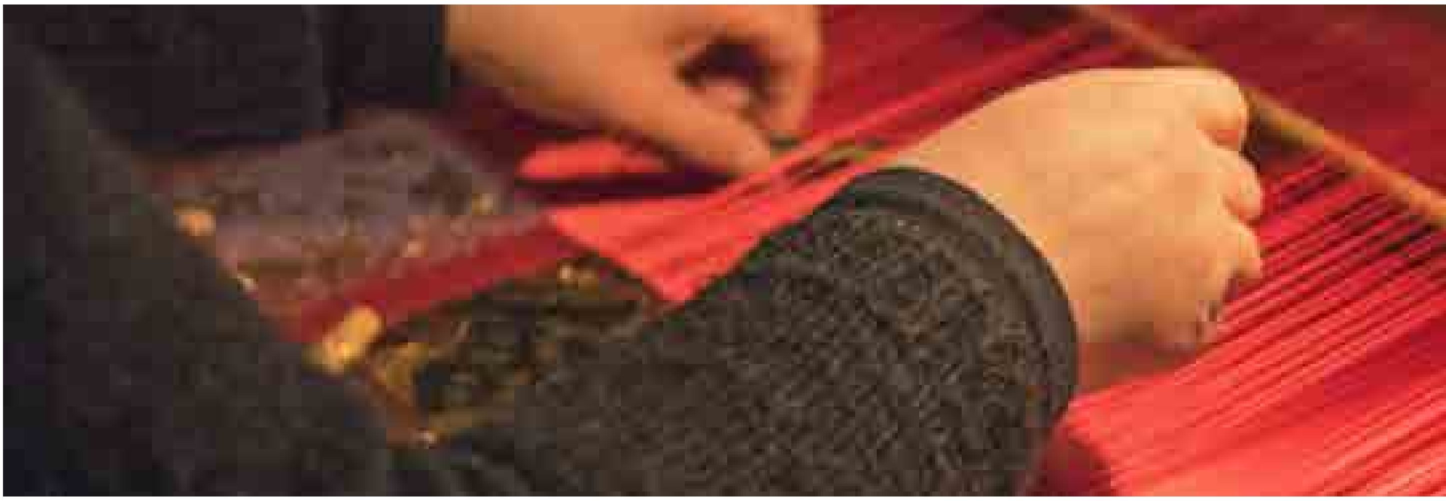
# Tax Treaties

As at February 2020, Vietnam has signed DTAs with 82 countries/territories, 75 of which have become effective. The method of eliminating double taxation varies from one treaty to another.

| Countries having DTAs with Vietnam | | | |
|---|---|---|---|
| Australia | | China | |
| Algeria | * | Croatia | |
| Austria | | Cuba | |
| Azerbaijan | | Czech Republic | |
| Bangladesh | | Denmark | |
| Belarus | | Egypt | * |
| Belgium | | Estonia | * |
| Brunei Darussalam | | Finland | |
| Bulgaria | | France | |
| Cambodia | | Germany | |
| Canada | | Hong Kong | |
| Hungary | | Palestine | |
| Iceland | | Philippines | |
| India | | Poland | |
| Indonesia | | Portugal | |
| Iran | | Qatar | |
| Ireland | | Romania | |
| Israel | | Russia | |
| Italy | | San Marino | |
| Japan | | Saudi Arabia | |
| Kazakhstan | | Serbia | |

| Countries having DTAs with Vietnam | | | |
|---|---|---|---|
| North Korea | | Seychelles | |
| South Korea | | Singapore | |
| Kuwait | | Slovak Republic | |
| Latvia | * | Spain | |
| Laos | | Sri Lanka | |
| Macedonia | * | Sweden | |
| Macao | * | Switzerland | |
| Malaysia | | Taipei | |
| Manta | | Taiwan | |
| Mongolia | | Thailand | |
| Morocco | | Tunisia | |
| Mozambique | | Turkey | |
| Myanmar | | Ukraine | |
| Netherlands | | United Arab Emirates | |
| New Zealand | | United Kingdom | |
| Norway | | United States of America | * |
| Oman | | Uzbekistan | |
| Pakistan | | Venezuela | |
| Panama | | Uruguay | |

* Not yet in force



# Transfer Pricing

The Law on Tax Administration empowers tax authorities to adjust the value of purchases, sales, exchanges and accounting records of goods and services of taxpayers if that value is not in accordance with market prices.

The Vietnamese transfer pricing requirements on transfer prices of business transactions undertaken between related parties are broadly consistent with the arm's length concept. **The rules are broadly consistent with those set out in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. The applicable transfer pricing methods under the Vietnamese transfer pricing regulations closely resemble the methods provided by the OECD Transfer Pricing Guidelines that include:**

- Comparable uncontrolled price method
- Resale price method
- Cost plus method
- Profit-split method or profit allocation method
- Comparable Profit Method (referred to as Transactional Net Margin Method in the OECD Transfer Pricing Guidelines).

The Vietnamese regulations contain detailed TPD requirements. The documentation must be prepared before the submission of the annual CIT return. It does not need to be filed but must be submitted to the tax authority within 15 working days upon receipt of written request in a tax audit. Under transfer pricing regulations, taxpayers are obliged to comply with the three-tiered TPD requirement, in line with the OECD's Action 13 Base Erosion and Profit Shifting (BEPS Action 13), including:

- Master file
- Local file
- Copy of Country by Country Report prepared by the overseas ultimate parent company in accordance with the laws of the respective parent company's jurisdiction.

In addition, **taxpayers are obliged to prepare and submit certain stipulated disclosure forms together with their CIT finalization returns.**

**Under the Vietnamese regulations, the burden of proof rests with the taxpayer. If transfer prices are found to be non-arm's length or non-compliant, then the Vietnamese Tax Authorities may make adjustments to the transfer prices and assess additional taxes and penalties.**

Taxpayers may enter into APA with Tax Authorities. The APA period is 5 years with a renewal of a maximum 5 years. The Vietnamese regulations on APAs are largely in line with the OECD Guidelines and APA regimes in other countries.

# Value Added Tax

| VAT | |
|---|---|
| Rates | 0%, 5% and 10% |
| Methods of calculation | Credit method and direct method |

VAT is generally applicable to goods and services used for production, trading, and consumption in Vietnam (including those purchased from overseas).

The standard VAT rate is 10%. A 0% rate applies to exported goods and services meeting certain conditions and a 5% rate applies to goods and services defined as essential, such as clean water, teaching aids, medicines and medical equipment, various agricultural products and services and technical/scientific services.

Some goods and services are exempt from VAT, such as credit activities, financial derivative services, certain insurance services and medical services.

There are two methods of VAT calculation, namely, the credit method (i.e., input VAT is deducted from output VAT to determine VAT payable) and the direct method (i.e., VAT payable is determined by multiplying the added value or revenue by the VAT rate).

For the credit method, generally the taxpayer is required to file a VAT return on either a monthly or a quarterly basis, depending on the taxpayer's revenue volume.

The due date for filing monthly VAT returns and tax payment is the 20th of the following month. For quarterly VAT declaration and payment, the deadline is 30 days following the end of the quarter.

# Foreign Contractor Tax

**The FCT regime is applicable to payments made by a Vietnamese contracting party to a foreign contractor who carries out projects in Vietnam or provides goods and services to Vietnamese customers without setting up a legal entity in Vietnam.**

A foreign contractor is defined as a foreign individual or entity that does business in Vietnam or earns income in Vietnam on the basis of a contract, agreement or undertaking with a Vietnamese organization or individual.

**The FCT consists of two components: VAT and CIT, the rates of which vary depending on the nature of the payment.**

The pure supply of goods at the border gate, services performed and consumed outside of Vietnam, and certain prescribed services performed outside of Vietnam (such as repairing of vehicles, machinery and equipment; advertising and marketing services; brokerage services and training) do not fall into the scope of the FCT regime.

A foreign contractor can select between three methods of tax payment: the declaration method, the direct method and the hybrid method.

Under the declaration method, the foreign contractors declare and pay CIT and VAT in a manner similar to an enterprise established in Vietnam. To apply this method, foreign contractors must meet all the stipulated requirements. This method is not commonly applied due to the administrative burden, except in the case of long-term projects which have an operating office in Vietnam.

For foreign contractors applying the direct method, VAT and CIT are withheld by the Vietnamese party at deemed CIT and VAT rates on taxable turnover. Deemed rates vary depending on the type of income (as summarized below). This method is applied by default if the foreign contractors do not voluntarily register for one of the other two declaration methods.

The hybrid method allows foreign contractors to register and pay VAT under the VAT credit method while CIT is paid at the same deemed percentage of taxable revenue as the direct method.

| Activities | Deemed tax rate | |
|---|---|---|
| | VAT (%) | CIT (%) |
| Trading (if import VAT has been paid) | - | 1 |
| Services, leasing of machinery and equipment | 5 | 5 |
| Hotel management service | 5 | 10 |
| Derivative service | - | 2 |
| Services together with provision of machinery and equipment | 3 | 2 |
| Leasing of aircraft, vessel (including components) | - | 2 |
| Construction, installation without supply | 5 | 2 |
| Construction, installation with supply | 3 | 2 |
| Transportation (including sea and air transportation) | 3 | 2 |
| Securities transfer, reinsurance, reinsurance commission | - | 0.1 |
| Interest | - | 5 |
| Royalties | 5 or exempted | 10 |

# Personal Income Tax

## Taxpayer

**Tax is imposed based on residency status. Residents are taxed on their worldwide income regardless of where the income is paid.**

Resident taxpayers are those who

- Reside in Vietnam for an aggregate of 183 days or more in a calendar year, or in a continuous twelve-month period, beginning on the date of arrival; or
- Have a permanent residential place in Vietnam (including a registered residence which is recorded on the permanent/temporary residence card, or a rented house in Vietnam with a lease term of 183 days or more in a tax year in the case of foreigners).

Individuals not meeting the conditions for being tax resident are considered tax non-residents. Tax non-residents are subject to PIT on their Vietnam related employment income, and at various other rates on their non-employment income. Tax relief may be provided under a DTA subject to conditions and application.

If an individual has a permanent residence as mentioned above but stays in Vietnam for less than 183 days in a tax year and can prove that he or she is a tax resident of another country, he or she is treated as a Vietnam tax non-resident in that tax year. The document required to prove tax residency of a foreign country is the original tax residency certificate issued by the foreign tax authority.

## Tax Year

The Vietnamese tax year is the calendar year. However, if an individual stays in Vietnam for less than 183 days in the calendar year of first arrival, the first tax year is the 12-month period from the date of arrival.

For tax-resident individuals who are citizens of countries having DTAs with Vietnam, their tax obligation is calculated from the month in which they arrive in Vietnam to the month in which their Vietnam assignment is terminated, and they leave Vietnam.

## Taxable Income

**Taxable income includes employment income and non-employment income.**

Employment income covers all income received by an employee from the employer in cash or in kind. There are certain income items which are not taxable, subject to certain conditions, e.g., one off relocation allowances for expatriates to reside in Vietnam or for Vietnamese working overseas on a long term assignment basis, school fees from kindergarten to high school for expatriates' children in Vietnam, round trip home leave airfare provided once per year for the expatriate employee, employer's contributions to voluntary and non-accumulated insurance schemes (e.g., medical, accident, etc.), cost of transportation for employees from home to work and vice versa in accordance with the company policy, rotation cost (for example, airfare, expenses related to use of helicopters to transport rotators from the mainland to a rig offshore and vice versa and hotel costs incurred during the days waiting for the flight to a rig offshore) for expatriate employees working in Vietnam in a number of specific industries, such as petroleum and mining, payment for training fee, payment for business trip, etc.,

Non-employment income includes income from business, capital investment, capital transfers, transfers of real property, winnings or prizes, royalties, commercial franchises, inheritances and gifts.

## Tax Exemptions

Certain types of income are exempt from tax, subject to certain conditions e.g.

- Interest on money deposited at banks or credit institutions, interest from life insurance policies and interest from Government bonds
- Overtime premiums in excess of the normal wage or salary
- Pensions paid by the Social Insurance Fund under the Law on Social Insurance, and monthly pensions received from voluntary pension funds
- Scholarships, compensation payments under life and non-life insurance contracts, compensation for labor accidents and other state compensation payments, etc.
- Income of Vietnamese vessel crew members working for foreign shipping companies or Vietnam international transportation companies.

## Tax Deductions

The deductions described below are available to tax residents who have employment income.

- Personal relief of VND11 million per month is automatically granted to the taxpayer
- A dependent relief of VND4.4 million per month per dependent. No limit is imposed on the number of dependents. However, an eligible dependent must meet certain conditions with respect to income, age and his or her relationship with the taxpayer. A registration dossier for qualified dependents is also required to be submitted to the tax authorities
- Contributions to mandatory social security schemes
- Contributions to certain charitable, humanitarian and educational promotion funds
- Contributions to voluntary retirement funds (both contribution of employer and employee), the current capped amount is VND1 million per month.

## Tax Rates for Employment Income

| Pit Rates for Employment Income | |
|---|---|
| Residents | Progressive rates from 5% - 35% on the worldwide income |
| Non-residents | 20% on the Vietnam sourced income |

The following table presents the progressive tax rates on employment income of resident individuals. Tax due is calculated by multiplying the assessable income (i.e., income after tax deductions and tax reliefs) by the tax rate and then subtracting the bracket adjustment.

| Residents' average monthly assessable income (VND) | Tax rate (%) | Bracket adjustment (VND) |
|---|---|---|
| 5,000,000 or less | 5 | 0 |
| 5,000,001 to 10,000,000 | 10 | 250,000 |
| 10,000,001 to 18,000,000 | 15 | 750,000 |
| 18,000,001 to 32,000,000 | 20 | 1,650,000 |
| 32,000,001 to 52,000,000 | 25 | 3,250,000 |
| 52,000,001 to 80,000,000 | 30 | 5,850,000 |
| 80,000,001 or over | 35 | 9,850,000 |

## Tax Rates for Business Income

Taxpayers who are tax residents and non-residents, including individuals and groups of individuals and households who engage in production and trading activities with respect to goods and services in all fields as stipulated by laws, are subject to tax on business income (including VAT and PIT). An exception applies to individuals with total annual revenue equal to or less than VND100 million.

The tax rates applied on business income vary depending on the type of business, as defined below:

| Tax residents | Deemed PIT | Deemed VAT |
|---|---|---|
| **Business activities** | **Rate (%)** | **Rate (%)** |
| Leasing and rental | 5 | 5 |
| Insurance and multilevel sales and lottery agent | 5 | 5 |
| Distribution and supply of goods | 0.5 | 1 |
| Services and construction without materials (no supply of materials) | 2 | 5 |
| Production, transportation, services associated with goods and construction with materials | 1.5 | 3 |
| Other business activities | 1 | 2 |

| Tax non-residents | | |
|---|---|---|
| Distribution and supply of goods | 1 | |
| Supply of services | 5 | |
| Production, construction, transportation and other | 2 | |

## Tax Rates for other Non-employment Income

The following flat tax rates are imposed on income of resident individuals other than employment and business income.

| Types of income | Tax rate for residents (%) | Tax rate for non-resident (%) |
|---|---|---|
| Income from capital investment | 5 | 5 |
| Income from royalties and franchising (exceeding VND10 million) | 5 | 5 |
| Income from winnings of prizes (exceeding VND10 million) | 10 | 10 |
| Income from inheritances (exceeding VND10 million) | 10 | 10 |
| Income from capital transfers | 20 | 0.1 |
| Income from security transfer | 0.1 | 0.1 |
| Income from transfers of real property | 2 | 2 |

## Taxation of Short-Term Business Travelers

Vietnam imposes PIT on short term business travelers into Vietnam on the basis that while they are present in Vietnam, the relevant portion of their salary should be treated as sourced in Vietnam (regardless of where it is paid). There is no de minimis time period under the domestic law. DTA relief may be available in certain cases but it must be applied for.

## Tax Reduction

Income of foreign experts working for an ODA project, programs or plans of NGOs in Vietnam are exempted from tax if certain conditions are met. An application for exemption is required by law.

## Tax Filing and Payment Procedures

Individuals who have taxable income are required to obtain a tax code. Those who have taxable employment income must submit the tax registration file to their employer who will subsequently submit this to the local tax office. Those who have other items of taxable income are required to submit their tax registration file to the district tax office of the locality where they reside.

Declaration and payment of tax on employment income by income payers must be made on a monthly basis by the 20th day of the following month or on a quarterly basis by the 30th day of the following quarter. The eligibility to declare tax on a monthly or quarterly basis shall be determined in the first month in which tax is withheld. It will remain unchanged throughout the year. If the income payer has monthly tax payable of less than VND50 million or is eligible to declare VAT on a quarterly basis, declaration and payment of tax on employment income must be made on a quarterly basis. In all other cases, declaration and payment of tax on employment income must be made on a monthly basis.

Individuals receiving salary from overseas are required to file tax returns on a quarterly basis by the 30th day of the 1st month of the following quarter. A year-end finalization of income tax is also required and any amounts due must be paid within 90 days after the end of the first tax year or the end of the calendar year.

A finalization return is required if any of the following circumstances exist:

- The tax payable is greater than the tax withheld or paid
- The individual is eligible for a tax refund
- The individual is a resident foreigner who terminates a Vietnam assignment.

A foreign resident individual terminating their employment contract in Vietnam is required to submit a final tax return before departure from Vietnam, or he/she can authorize for the income payer/other individual to submit the final tax return within 45 days from the departure date from Vietnam.

PIT in respect of income from capital investment, capital transfer, (including transfer of security), royalties, franchising, winnings and prizes is generally required to be withheld by the income payer or the authorized organizations upon payment of the income. Other non-employment income is required to be declared by the individual separately, based on the type of taxable income and the applicable tax rates. The tax declaration of these types of income is normally made on transactional basis whenever the income is incurred.

Vietnamese companies are required to submit a notification to the local tax authorities providing information on any of their foreign contractor's employees (including their name, income information, passport number, etc.) that are sent to provide services in Vietnam at least 7 days before the individuals start working in Vietnam.

## Social Security Contributions

The following are the current statutory contribution rates for employers and employees with respect to social security, health insurance and unemployment insurance.

| Contributions | Social security (% of salary) | Health insurance (% of salary) | Unemployment insurance (% of salary) | Total |
|---|---:|---:|---:|---:|
| Employer | 17.5 | 3 | 1 | 21.5 |
| Employee | 8 | 1.5 | 1 | 10.5 |
| Total | 25.5 | 4.5 | 2 | 32 |

The SHI contribution base is the salary, certain allowances and other regular payments stated in the labor contract but is limited to 20 times the general minimum salary stipulated by the Government.

The Unemployment Insurance contribution is only required for Vietnamese employees and calculated based on the salary, allowance and other regular payments stated in the labor contract. However, it should not exceed 20 times the regional minimum salary, which varies for each city and province.

The general minimum salary and regional minimum salary change from year to year according the Government's decision.

SHI is required for both local and foreign employees working in Vietnam. Foreign employees who sign labor contract with Vietnamese entities with a term of one month or more and have a work permit or practice license/certificate are subject to social insurance. In which, from 1 December 2018 up to 1 January 2022, short-term schemes (sickness, maternity, occupational diseases and accident) will take effect first. From 1 January 2022 onwards, the above short-term schemes and long-term schemes (retirement and death) will take effect in full.

## Export Duty and Import Duty

Export duty is only imposed on a few items. These are basically natural resources such as ore and minerals, plants and parts of plants used primarily in producing perfumes or pharmaceuticals, and scrap metal. The rates range from 0% to 40%.

Import duty is assessed on an ad valorem basis, with the dutiable value of imported goods generally in accordance with the WTO Valuation Agreement 1994, with certain modifications. Commonly, this is the price actually paid or payable for the goods at the first check-point of importation into Vietnam, with certain adjustments.

**Import duty rates range from 0% to 75% which can be reduced with various FTAs Vietnam has concluded bilaterally as well as multilaterally.**

## Special Sales Tax

**SST is a type of excise tax applicable to certain imported and domestically produced goods and services that are not encouraged for domestic consumption or considered luxurious.** SST rates vary from **5% to 150%**. Examples of products or services subject to SST include goods such as cigars/ cigarettes, spirits/wine, vehicles with fewer than 24 seats, motorcycles, aircraft, yachts and services such as casinos and gambling, karaoke, massage and lotteries.

## Business License Tax

Business License tax is payable at the beginning of each calendar year, at an amount that varies depending on registered charter capital or investment capital. For production, trading and service organizations, the Business License tax is summarized as below:

| Level of Business License Tax | Registered charter capital or investment capital (VND) | Business License Tax payable/ year (VND) |
|---|---:|---:|
| Level 1 | Over 10 billion | 3 million |
| Level 2 | 10 billion and below | 2 million |
| Level 3 | Branch; RO; Trade location; Other economic organizations | 1 million |

# Environment Protection Tax

Environment protection tax is an indirect tax applied on the production and importation of certain goods, including petroleum products. The tax is determined based on the quantity of the goods. The rates are as follows:

| Goods | Unit | Tax rate (VND) |
|---|---|---|
| Petroleum, oil and lubricants | liter/kilogram | 1,000 to 4,000 |
| Black coal | ton | 15,000 to 30,000 |
| HCFC solution | kilogram | 5,000 |
| Taxable plastic bags | kilogram | 50,000 |
| Herbicide (restricted use category) | kilogram | 500 |
| Termite insecticide (restricted use category) | kilogram | 1,000 |
| Forest products protective agents (restricted use category) | kilogram | 1,000 |
| Warehouse insecticides (restricted use category) | kilogram | 1,000 |

# 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 (except for natural water used for agriculture, forestry, aquaculture, and salt production). The tax rates range from 1% to 35%, depending on the natural resource being exploited and are applied to the production output at a specified taxable value per unit.

# 04 Employment, work permits, immigration

## Entry Visas

All foreign nationals must have a passport or equivalent travel document that is valid for at least six months and a visa granted by the competent Vietnamese agencies in order to enter Vietnam. There are short term travel visa exemptions for citizens of countries that have bilateral consular agreements (ASEAN member countries and Kyrgyzstan) or unilateral agreements (Denmark, Finland Japan, Korea (South), Norway, the Russian Federation and Sweden) with Vietnam.

To legally enter Vietnam, foreign nationals must apply for a visa corresponding to their purpose of entry and provide supporting documents. After the visa is granted, the foreign national is responsible for acting in accordance with the registered purpose of entry. This purpose should not change during their stay in Vietnam.

Foreign nationals entering Vietnam to work must submit the work permit in the visa application dossiers. Consequently, work permits must be obtained before the labor visa application dossiers are filed.

The validity of each visa type differs and corresponds to the supporting documents in the visa application. For example, the maximum duration of a labor visa is 2 years, the maximum duration of an investor visa is 5 years, and the maximum duration of a business visa is 12 months.

# Work Permits and Residence Permits

## Work Permits

**A work permit is required for a foreign national to legally work in Vietnam, except for cases of work permit exemptions.** The sponsoring entity in Vietnam must submit a document explaining the need to employ foreign nationals in Vietnam (known as "demand for using foreign nationals") to the relevant Government's body before recruiting or transferring the foreign nationals to work in Vietnam. The local authority will respond to the sponsoring entity in writing regarding the acceptance or refusal of the demand. This letter is considered to be a pre-approval for using foreign employees in Vietnam and is one of the compulsory documents for application dossiers for work permit issuance or reissuance.

A work permit application must be filed with the local DOLISA before the expected commencement date of the employee.

A work permit can be granted with a maximum validity period of two years but can be renewed.

## Qualification Requirements

A foreign national who wants to work in Vietnam must meet the required qualifications for a pre-approval position. They must also be working as a manager, executive director, expert or technician.

In addition to the required qualifications, there is also requirement on minimum working duration with their home employer for an intra-company transfer.

## Work Permit Exemption

A work permit exemption may be granted in certain stipulated cases e.g., capital-contributing members or owners of limited liability companies, members of the board of directors of JSCs, chiefs of ROs, those who stay in Vietnam for under 3 months to offer services for sale, those who are coming to Vietnam to work as an expert, manager, executive director or technician for a working period under 30 days and for a total cumulative period not exceeding 90 days in any 1 year.

For the majority of work permit exemptions, the sponsoring entity must submit the work permit exemption application to the local DOLISA before the foreign national is expected to begin work in Vietnam. The local DOLISA will issue a written certificate to the sponsoring entity within three business days after the date on which a complete application is received. A written response and explanation are provided if the work permit exemption application is rejected, otherwise an approval certificate is issued to the sponsoring entity.

## Residence Permits

A temporary residence card is granted to a foreign national who has a valid work permit or work permit exemption and to their legal spouse and children under 18 years old.

The temporary residence card functions as a multiple entry visa with a minimum term of one year. The maximum term for a temporary residence card is subject to the term of the work permit, work permit exemption, and the validity of business license and the applicant's passport.

This card can only be granted after the applicant has entered Vietnam using the correct visa.

# 05 Accounting & Auditing

## Vietnamese Accounting Framework

The Government and the MOF have issued the Law on Accounting, a set of 26 VAS and various attached accounting guidance through Decrees and Circulars. **All foreign and local companies operating in Vietnam are required to comply with VAS and the Vietnamese Enterprise Accounting System.** This set of 26 VAS originated from the corresponding IAS with certain local modifications while the Vietnamese Enterprise Accounting System dictates accounting entries, book-keeping and the presentation of financial statements by assigning a standard accounting chart of accounts as well as disclosure templates. The Vietnamese Accounting Framework is mainly rule-based. Some elements of VAS and the Vietnamese Accounting System are summarized as follows:

## Accounting documents

- Language: The language of accounting shall be Vietnamese. Where a foreign language must be used on an accounting record, accounting book, or financial statement which is used in Vietnam, it is required to use both Vietnamese and that foreign language
- Currency: VND is the legally required currency of accounting records. For foreign invested entities, if certain designated requirements are met, they are allowed to use a foreign currency other than VND as the accounting currency to disclose their documents. However, the VND-based (if VND is the accounting currency) or VND-converted reports (if the accounting currency is other than VND) need to be audited and submitted to local authorities following specific stipulated Laws and Regulations
- Accounting period: An annual accounting period is 12 months from 1 January to the end of 31 December. The company is allowed to begin the annual accounting period on the 1st of a quarter and end it on the last day of the next four quarters, however notifications to the finance and tax authority are required. The first accounting period of newly-established entities should not be longer than 15 months. Similarly, the same duration applies for the last accounting period of entities on termination of its business
- Accounting records: An accounting record shall be made for each economic/financial transaction that occurs during the operation of the Company, either physical or electronic. The template for an accounting record is flexible, however it must have sufficient minimum contents required by Accounting Law such as:
  - Name and number of the accounting record
  - Date of the accounting record
  - Name, address of the entity that makes the accounting record
  - Name, address of the entity that receives the accounting record
  - Contents of the economic/financial transaction that occurs
  - Quantity, unit price, amount of the economic/ financial transaction in number; total amount of accounting records serving collection or payment of money in both number and words
  - Signatures, full names of the persons who make, approve the accounting record, and relevant persons
- Chart of accounts and financial statements: the chart of accounts and the form of financial statements must be in compliance with the Vietnamese Enterprise Accounting System. Using more detailed sub chart of accounts (level 2 and 3) to fit the business's operation of entities is allowed
- Accounting team: Every accounting unit must organize the accounting apparatus, appoint accountants, or use external accounting services. An appointed chief accountant must have at least an associate degree in accounting; a chief accountant certificate; and at least 2 or 3 years' experience of accounting work if holding a bachelor's degree or associate degree in accounting, respectively
- Signing accounting records: Accounting records must be signed either physically or electronically by competent and authorized persons
- Retention: In general, documents used for internal management of entities are required to be retained for 5 years. Accounting books must be retained for 10 years, and documents which contain crucial information on national economy, security and defense must be retained forever. Electronic vouchers are not required to be printed out for retention however the Company must ensure information security and the information must be accessible during the retention period.

## Financial statements

- Reports: The financial statements' template must be in compliance with the VAS which comprises of the following:
  - Balance sheet
  - Income statement
  - Cash flow statement
  - Notes to the financial statements, including a disclosure on changes in equity.

For Vietnamese reports, the official number templates are dot symbol (.) for separating the thousand digit and comma symbol (,) for separating the decimal digit. The use of these two symbols are reversed in foreign language and Tax reports.

- Approval and authorization: The legal representative and chief accountant of entities are in charge of reviewing and approving the true and fair disclosure of financial reports. Chief accountants need to meet certain prescribed criteria by the Accounting Law to be able to uphold their responsibilities
- Deadline to submit financial statements: The Company is required to submit audited financial statements within 90 days from its fiscal year end
- Accounting inspection: Accounting inspection shall only be carried out under a decision of a competent authority as prescribed by law.

# Heading to International Financial Reporting Standards

26 VAS originated from the corresponding version of IAS with certain local modifications. The key differences between VAS and IFRS are related to the "fair value" concept in IFRS as well as certain modifications to fit with the Vietnamese practice. VAS is rule-based accounting with historical value, while IFRS accounting is principle-based.

The Vietnam Government and the MOF have decided to revise the Law on Accounting and developed a plan to adopt IFRS in Vietnam.

According to the latest draft IFRS implementation plan, Vietnam plans to adopt IFRS by 2025, starting with updating changes in IFRS to the 26 VAS and introducing new VAS/Vietnam Financial Reporting Standards following the latest IAS and IFRS such as:

- Fair value Measurement (IFRS 32,39) providing detailed guidance to estimate fair value and disclosure of fair value
- Impairment of Assets (IAS 16) providing detailed guidance for impairment of tangible assets, intangible assets and goodwill acquired in business combinations
- Financial Instruments — Recognition and Measurement (IFRS 9) providing guidance for the recognition and measurement of financial instruments, including application of fair value
- Revaluation model (IAS 16) allowing the revaluation model for tangible assets
- Non-current assets held for sale and discontinued operations (IFRS 5), Share-based payment (IFRS 2), Employee benefits (IFRS 19), Accounting for Government Grants and Disclosure of Government Assistance (IAS 20), Exploration for and Evaluation of Mineral Resource (IFRS 6), Agriculture (IAS 41), and Financial Reporting in Hyperinflationary Economies (IAS 29).

# Auditing requirements

## Vietnamese auditing framework

Vietnam has issued 47 VSA which are primarily based on the ISA with minor modifications to fit the Vietnamese practice.

## Submission of audited financial statements

Foreign-invested enterprises are obliged to submit their audited financial reports to the relevant authority bodies i.e., Financial agencies (e.g. MOF); Tax agencies (e.g. General Department of Taxation/provincial tax department); Statistics agencies (e.g. General Statistics Office of Vietnam); Superior agencies; Business registration agencies, etc. Listed companies are additionally required to submit its reviewed half-year report and audited year-end reports to the State Securities Committee, along with relevant stock exchange (either Ho Chi Minh Stock Exchange or Ha Noi Stock Exchange).

## Auditor rotation

According to the Law of Independent Audit, if the enterprises are to engage in an auditing contract lasting more than 3 consecutive years with audit entities, the appointed audit firm is required to rotate their profession-practicing auditors as well as the persons responsible for signing audit reports every 3 years.

# About EY Vietnam

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- Business Consulting
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- People Advisory Services (PAS)

# List of abbreviations

| | |
|---|---|
| APA | Advance Pricing Agreements |
| ASEAN | Association of Southeast Asian Nations |
| BCC | Business Cooperation Contract |
| BEPS | Base Erosion and Profit Shifting |
| CIT | Corporate Income Tax |
| CPTPP | Comprehensive and Progressive Agreement for Trans-Pacific Partnership |
| DOLISA | Department of Labor, Invalids and Social Affairs |
| DPI | Department of Planning and Investment |
| DTA | Double Taxation Agreement |
| EPE | Export Processing Enterprises |
| EPZ | Export Processing Zone |
| ERC | Enterprise Registration Certificate |
| FCT | Foreign Contractor Taxes |
| FIE | Foreign Invested Enterprise |
| FTA | Free Trade Agreement |
| GSO | General Statistics Office |
| HCFC | Hydrochlorofluorocarbon |
| IAS | International Accounting Standards |
| IFRS | International Financial Reporting Standards |
| IP | Industrial Park |
| IRC | Investment Registration Certificate |

| | |
|---|---|
| IT | Information Technology |
| JSC | Joint Stock Company |
| LLC | Limited Liability Company |
| LOE | Law on Enterprise |
| LOI | Law on Investment |
| M&A | Mergers and Acquisitions |
| MPI | Ministry of Planning and Investment |
| MOF | Ministry of Finance |
| NGO | Non-Governmental Organization |
| ODA | Official Development Assistance |
| OECD | Organization for Economic Co-operation and Development |
| PIT | Personal Income Tax |
| RO | Representative Office |
| SBV | The State Bank of Vietnam |
| SHI | Social Health Insurance |
| SST | Special Sales Tax |
| TPD | Transfer Pricing Documentation |
| VAS | Vietnamese Accounting Standards |
| VAT | Value Added Tax |
| VND | Vietnamese Dong |
| VSA | Vietnamese Standards on Auditing |
| WB | World Bank |
| WTO | World Trade Organization |

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