Taxation

Legislation
The backbone of the taxation system is set up by:

(i) the Law on Tax Administration 2006, as amended and supplemented in 2012, 2014 and 2016, which provide general regulations on:

- Tax registration, tax declaration, tax payment and fixing amounts of tax payable;
- Conduct of procedures for tax refund, tax exemption and tax reduction;
- Cancellation of outstanding tax payable and of fines;
- Management of information about tax payers;
- Tax checks and inspections;
- Compulsory enforcement of administrative decisions about tax;
- Dealing with breaches of the law on tax;
- Resolution of complaints and denunciations about tax; and

(ii) other tax laws, which detail taxable and non-taxable objects, basis for calculation of tax and tariffs, exemption from and reduction of tax, declaration and payment of tax, complaints and dealing with breaches for each specific kind of tax, etc. For instance, they include the Law on Corporate Income Tax adopted in 2008, as amended and supplemented in 2013 and 2014; the Law on Value-Added Tax, passed in 2008, as amended and supplemented in 2013, 2014 and 2016; the Law on Special Sales Tax adopted in 2008, as amended and supplemented in 2014 and 2016; the Law on Personal Income Tax passed in 2008, as amended and supplemented in 2012 and 2014; and the new Law on Export Tax and Import Tax adopted in 2016.

There are also hundreds of decrees, circulars and other regulations being issued by the Government, various ministries and agencies, from time to time, with a view to provide guidelines for the implementation of those laws.

Types of Taxes

According to the prevailing tax law system, at least, the following taxes should be aware of by foreign investors when doing business in Vietnam:

(i) Corporate income tax;
(ii) Value-added tax;
(iii) Special sales taxes;
(iv) Withholding tax;
(v) Import/export tax;
(vi) Non-agricultural land use tax;
(vii) Royalties;
(viii) Environmental protection tax;
(ix) Foreign contractor tax;
(x) Personal income tax.

Details about each type of taxes are described herein.

Corporate Income Tax

The standard corporate income tax ("CIT") rate is now 20% as from 1 January 2016, decreased from 32%, 28%, 25% and 22% in the past, thanks to the issuance of the Law on CIT as amended and supplemented, and applicable to all legal entities; except for.

(i) The CIT rate for search, exploration and extraction activities of oil and gas and other rare natural resources in Vietnam from 32% to 50%. For the search, exploration and extraction of oil and gas, based on the location and conditions for extraction and mine reserve, the Prime Minister shall decide on the tax rate consistently with each project and business establishment at the request of the Minister of Finance;
(ii) For the platinum, gold, silver, tin, wolfram, antimony, precious stones, rare earth mines, the tax rate is 50%. Where

the mines having an assigned area 70% or more in the areas with extremely difficult socio – economic conditions in the list of areas entitled to the preferential of CIT, these areas shall be subject to the CIT rate of 40%.

Below are the incentives including preferential tax rates, tax holiday and tax reductions:

(i) The tax rate of 10% is applicable to:

(a) Incomes of private enterprises from investment in education, vocational training, health, culture, sports, environment, and judicial expertise;
(b) Incomes of enterprises from the investments in social housing that are for sale, for lease, or for hire purchase according to Law on Residential Housing;
(c) Incomes from press agencies from printing newspapers, including advertisements on printed newspapers according to the Law on Press; incomes of publishers from publishing according to the Law on Publishing;
(d) Incomes of enterprises from planting, cultivating, and protecting forests; from agriculture, forestry, and aquaculture in localities facing socio-economic difficulties; from the production, multiplication, and cross-breeding plants and animals; from the production, extraction, and refinement of salt except for the production of salt; from investment in post-harvest preservation of agriculture products, aquaculture products, and food.

(ii) The tax rate of 10% for 15 years is applicable to:

(a) Incomes of enterprises from the execution of new projects of investment in localities facing extreme socio-economic difficulties, economic zones, and hi-tech zones;
(b) Incomes of enterprises from the execution of new projects of investment, including: scientific research and technology development; application of high technologies in the list of prioritized high technologies according to the Law on High

Technologies; cultivation of high technologies, cultivation of hi-tech enterprises; high-risk investment in the development of high technologies in the list of prioritized high technologies according to the Law on High Technologies; investment in construction, operation of facilities for cultivation of high technologies, cultivation of high-tech enterprises; investment in development of water plants, power plants, water supply and drainage system; bridges, roads, railroads, airports, seaports, air terminals, train stations, and other particularly important infrastructural works decided by the Prime Minister; software production; manufacture of composite materials, light building materials, rare and valuable materials; production of renewable energy, clean energy, waste-to-energy process; development of biological technology; and environment protection;

(c) Incomes of hi-tech enterprises and agricultural enterprises that apply high technologies according to the Law on High Technologies;

(d) Incomes of enterprises from the execution of new projects of investment in production (except for the production of articles subject to special excise duties and mineral extraction projects), which meet one of the two criteria as below:

• Any project of which the capital is at least VND6,000 billion that is released within 3 years from the day on which the IRC is issued, and the total revenue reaches at least VND10,000 billion within 3 years from the first year in which revenue is earned;

• Any project of which the capital is at least VND6,000 billion that is released within 3 years from the day on which the IRC is issued, and employ more than 3,000 workers within 3 years from the first year in which revenue is earned.

(iii) The tax rate of 15% is applicable to incomes of enterprises from farming, breeding, and agro-processing and fish processing that are not in localities facing socio-economic difficulties and localities facing extreme socio-economic difficulties.

(iv) The tax rate of 17% is applicable to incomes of people's credit funds and microfinance institutions.

(v) The tax rate of 17% for 10 years is applicable to:

(a) Incomes of enterprises from the execution of new projects of investment in localities facing socio-economic difficulties;
(b) Incomes of enterprises from the execution of new projects of investment, including: production of high-grade steel; production of energy-saving products; production of machinery and equipment serving agriculture, forestry, aquaculture, salt production; production of irrigation equipment; production and refinement of feed for livestock, poultry, and aquatic organism; development of traditional trades.

For special projects that need to attract a lot of investment and high technologies, the period of preferential tax rates may be extended, but the extension shall not exceed 15 years.

The duration of application of preferential tax rates shall be counted consecutively from the first year in which revenue is earned. For hi-tech enterprises and agricultural enterprises applying high technologies, this duration shall be counted from the year when they are recognized as hi-tech enterprises or agricultural enterprises applying high technologies. For projects applying high technologies, this duration shall be counted from the year when they are granted certificates of projects applying high technologies.

In case where an enterprise has not derived taxable income during 3 years as per the generating year of first turnover, the tax holiday or reduction shall apply from the fourth year.

Value-Added Tax
Value-Added Tax ("VAT") is levied on the added value of most goods and services generated during the process from the production, circulation to consumption (With respect to some

categories, they are also subject to Special Sales Tax, as described in Section 16.5 hereunder). According to the Amended Law on VAT 2008, there are three (instead of four as previously) VAT rates as follows:

(i) The tax rate of 0% is applicable to exported goods and services (i.e. that are consumed outside Vietnam or in free trade zones, or sold to foreign customers), international transportation, and to goods and services which are not subject to VAT and which are exported, except for the following:

(a) Technology transfers and intellectual property transfers to foreign countries;
(b) Services being reinsurance offshore, overseas securities investment;
(c) Assignment of capital, credit services;
(d) Derivative financial services;
(e) Outbound postal and telecommunications services (including those provided for the entities in free trade zones; prepaid cards sold overseas or in free trade zones);
(f) Export products being exploited natural resources and mined minerals which have not yet been processed into other products, export products being commodities processed from natural resources and minerals with the total value of natural resources and minerals plus energy costs accounting for 51% or more of the cost of products;
(g) Cigarettes, alcohol, and beers imported then exported; and
(h) Goods and services provided to individuals in the non-tariff area who have not registered their business, except in other cases prescribed by the Prime Minister.

(ii) The tax rate of 5% is applicable to:

(a) Clean water for manufacturing and for living purposes, except for bottled water and other soft drinks.
(b) Ore used for production of fertilizers; pesticides and growth stimulants for animals and crops.

(c) Services of digging and ploughing, and dredging canals, ditches, ponds and lakes for agricultural production; planting, raising and pest control of crops; semi-processing and preserving agricultural products.
(d) Products of cultivation, husbandry and aquaculture which have not yet been processed, except for products of cultivation, husbandry, aquaculture, seafood and fisheries which have not yet been processed into other products or which have only been subject to conventional preliminary treatment by organizations and individuals in the stages of production, catching, sale and import.
(e) Semi-processed latex; semi-processed resin; and netting, cord and fibre used for weaving into fishing nets.
(f) Fresh food produce; and forestry products which have not yet been processed except for wood, bamboo shoots and the products which have not yet been processed into other products or which have only been subject to conventional preliminary treatment by organizations and individuals in the stages of production, catching, sale and import.
(g) Sugar; and by-products obtained in manufacture of sugar comprising sugar-cane dregs, bagasse and sugar dregs.
(h) Products made from jute, sedge, bamboo, rattan, coconut husks and shell, water hyacinth, and other handmade products produced by using agricultural raw materials; semi-processed cotton; and newsprint.
(i) Medical equipment and instruments; medical sanitary cotton and bandages; preventive and curative medicines; and pharmaceutical products and pharmaceutical materials which are the raw materials for producing preventive and curative medicines.
(j) Teaching and study aids used for teaching and studying including various types of models, drawings, blackboards, chalk, rulers, compasses and various types of specialized equipment and tools for teaching, research and scientific experiments.
(k) Cultural activities; exhibitions; physical training and sports activities; artistic performances; film production; and

importation, distribution and screening of films.
(l) Children's games; books of all types, except for the books which have not yet been processed into other products or which have only been subject to conventional preliminary treatment by organizations and individuals in the stages of production, catching, sale and import.
(m) Scientific and technological services as stipulated in the Law on Science and Technology.
(n) Selling/Leasing/Hire purchase social housing as specified in Law on Residential Housing.

(iii) The standard tax rate of 10% is applicable to other goods and services.

Special Sales Tax
Other than those subject to VAT, the following are being subject to the Special Sales Tax with the rates ranging from 5% to 150%, which are:

(i) Cigarettes, cigars and other products processed from tobacco and used to inhale, sniff, chew, smell or swallow;
(ii) Spirits;
(iii) Beer;
(iv) Passenger vehicles of less than 24 seats, including vehicles for carrying both passengers and cargo with two or more rows of seats, designed with a fixed partition between the passenger and cargo compartments;
(v) Two-wheel and three-wheel motor vehicles with cylinder capacity above 125 cm3;
(vi) Aircraft and yachts;
(vii) Various types of petrol;
(viii) Air conditioners with a capacity of 90,000 BTU or less;
(ix) Playing cards;
(x) Votive paper;
(xi) Business of operating dancehalls;
(xii) Business of operating massage lounges and karaoke parlours;
(xiii) Business of operating casinos and of operating

electronic games with prizes including jackpot machines, slot machines and other similar types of machines;
(xiv) Betting business;
(xv) Golf business including selling membership cards and tickets to play golf; and
(xvi) Business of operating lotteries.

These tax rates were applied from 1 January 2016. In addition, for some products, including cigarettes, cigars and other manufactured tobacco products; alcohols and beers, tax rates will be adjusted gradually to increase according to their own roadmaps.

Contrary to previous regulations providing that the goods and services subject to VAT were not subject to special sales tax, and vice versa according to the VAT Law, these two taxes may be concurrently applied on the same goods or service.

Withholding Tax
Since 1 January 2009, foreign capital projects and investors are free from paying the withholding tax. However, they are subject to corporate income tax or personal income tax as described in Sections 16.3 above and 16.9 hereunder as the case may be.

Export Tax, Import Tax
Vietnam is now adjusting its import and export tariffs in order to promote export and to fulfill the international commitments to cut down import duties and remove non-tariff barriers in line with ASEAN economic agreements, ASEAN – China economic agreements, ASEAN – Japan and Vietnam – Japan comprehensive economic partnership agreements, ASEAN – Korea economic agreement and Vietnam – Korea FTA, agreement establishing ASEAN – Australia – New Zealand free trade area, ASEAN – India economic agreements, Vietnam – EAEU FTA, Vietnam – EU FTA, Trans-Pacific Partnership Agreement, and agreements with other international trade organizations.

According to the LI and the Law on Import/Export Tax, foreign capital projects and foreign investors to PPP contracts or BCCs are exempted from duties imposed on the goods which they import to create their fixed assets, including:

(i) Goods temporarily imported for re-export or temporarily exported for re-import to participate in fairs, exhibitions, product introduction; machinery, equipment and professional tools that are temporarily imported and re-exported, or temporarily exported and reimported in order to service work within a certain specified period.
(ii) Goods which are moveable assets of foreign organizations or individuals brought in Vietnam or overseas to the extent prescribed by law.
(iii) Goods which are imported in service of processing for a foreign party and then exported, or goods that are exported overseas in service of processing for a Vietnamese party and then re-imported pursuant to a processing contract.
(iv) Imports and exports in duty-free luggage quotas for people on exit or entry stipulated by the Government.
(v) Goods which are imported in order to form fixed assets of a project that is an encouraged investment or of a project funded by ODA, comprising:

(a) Equipment and machinery;
(b) Specialized means of transportation of a technological line and means of transportation used for transporting employees; means of transportation for transporting workers, including automobiles with 24 seats or more and means of waterways transportation;
(c) Components, details, separate sections, spare parts, fittings, moulds and accessories accompanying the equipment, machinery and specialized means of transportation;
(d) Raw materials and materials used to manufacture equipment and machinery in technological lines or to manufacture components, details, separate sections, spare parts, fittings, moulds and accessories accompanying the equipment and machinery;
(e) Construction materials which are not yet domestically produced; and

(f) Raw materials and other materials imported for performing BOT, BTO and BT projects.

The said tax exemptions will also apply to cases of expanding the scale of a project and of replacing and renewing technology.

(vi) Plant and animal seeds/ breeds, special agricultural products which are allowed to import to carry out agricultural, forestry and aquatic projects.

The said tax exemptions will also apply to cases of expanding the scale of a project and of replacing and renewing technology.

(vii) Goods which are equipment and facilities imported for the first time pursuant to the list stipulated by the Government for investment projects for hotels, offices, apartments for lease, residential housing, commercial centres, technical services, supermarkets, golf courses, tourist resorts, sporting resorts, entertainment areas, medical diagnosis and treatment establishments, and entities that are training, cultural, financial, banking, insurance, auditing, and consultancy services establishments.

(viii) Goods imported in order to support petroleum operations, comprising:

(a) Equipment, machinery, and specialized means of transportation which are essential for petroleum operations; Means of transportation for transporting workers include cars of 24 seats or more and waterway means; Including components, details, spare parts, fittings, replacement parts, molds and accessories provided for synchronous assembly or synchronous use with equipment, machinery and specialized means of transportation; Means of transportation to pick up workers mentioned above;
(b) Materials which are essential for petroleum operations and which are not yet able to be produced domestically;
(c) Medical equipment and first aid medicines for use on drilling platforms and floating structures certified by the Ministry of Health

("MOH");
(d) Office equipment in service of petroleum operations;
(e) Goods temporarily imported for re-export in service of petroleum operations.

(ix) Goods which are imported for direct use in scientific research and development of technology, including machinery, equipment, accessories, materials and means of transportation which are not yet able to be produced domestically, and technology which is not yet able to be created domestically; and scientific books and data.

(x) Raw materials, materials and component parts imported for production of projects on the list of sectors where investment is specially encouraged or on the list of regions with special difficult socio-economic conditions will be exempted from import duty for a duration of 5 years from the commencement of production.

(xi) Goods which are manufactured, processed, recycled or assembled in nontariff zones without using raw materials or component parts which are imported from abroad, upon import thereof into the domestic market; in the case where raw materials and component parts imported from abroad are used, upon import of goods into the domestic market, import duty must be paid on that part of the goods which is imported raw materials or component parts which form a constituent part of such goods.

(xii) Other cases pursuant to a decision of the Prime Minister.

Import taxes imposed on imported goods for the production of goods exported to foreign countries or exported into non-tariff area shall be refunded corresponding to the proportion of actually exported products, and exported goods determined as being entirely processed from imported raw materials and materials shall not be subject to export tax.

Non-agricultural Land Use Tax

The tax rate of 0.03% shall apply to non-agricultural production and business land (e.g. land being rivers, streams, canals, drains or creeks, and specialized use water surfaces; land on which headquarters and building works are constructed; etc.) and non-agricultural land used for business purpose.

Royalties

Organizations, which exploit natural resources including: metallic minerals; non-metallic minerals; crude oil; natural gas, coal gas; natural forest products, except animals; natural seafood, including marine animals and plants; natural water, including surface water and groundwater, excluding natural water used for agriculture, forestry, fisheries and salt production; swallow's nest; and other natural resources prescribed by the National Assembly's Standing Committee, must pay royalty at rates ranging from 1 to 40%.

Environmental Protection Tax

This is a type of indirect tax imposed on products and goods that, when used, is detrimental to the environment, except for goods transported in transit or transshipment; goods temporarily imported for re-export; goods directly exported by the production establishments or by export business establishments entrusted by the production establishments, except for cases where organizations purchase goods subject to environmental protection tax for export.

Taxable objects include: gasoline (except ethanol), lubricant oils and grease; coal; hydrogen-chlorofluorocarbon (HCFC) liquid; plastic bags made of HDPE, LDPE or LLDPE plastic films, except for pre-packaged goods and plastic bags meeting the environmentally friendly criteria prescribed by the Ministry of Natural Resources and Environment ("MONRE"); herbicides, insecticides, forest product preservatives, and warehouse disinfectant which are restricted from use. The National Assembly's Standing Committee shall consider and supplement other taxable object(s) to suit each period when deeming it necessary.

Organizations and individuals that produce and/or import taxable goods shall have to pay the environmental protection tax calculated in the quantity of taxable units multiplied by the absolute tax rate prescribed per unit of goods. In which the absolute tax rate applicable to gasoline and oil is VND300-4,000/liter, to lubricant grease is VND300-2,000/kg; to coal is VND10,000-50,000/ton; to HCFC liquid is VND1,000-5,000/kg; to taxable nylon bag is VND30,000-50,000/kg; and to herbicides, insecticides, forest product preservatives, and warehouse disinfectants which are restricted from use, is VND 1,000-3,000/kg.

16.6 Foreign Contractor Tax

Foreign contractors who conduct production and business activities in Vietnam, not under the LI, Petroleum Law and Law on Credit Institutions on the basis of signing contracts with Vietnamese legal entities, and sub-contractors who provide services to contractors in Vietnam, shall be liable for paying the same taxes and tax rates as applicable to the local enterprises. These taxes include VAT, CIT, import tax-export tax, PIT, and others if so required by the laws of Vietnam.

Foreign contractors and sub-contractors may choose one of three following ways to pay VAT and CIT:

(i) Declaration Method (paying VAT using credit-invoice method, paying CIT according to declared revenue and expense):
This is applicable to foreign contractor/ subcontractor who has a permanent establishment in Vietnam or the contractor/subcontractor is a resident of Vietnam; whose 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; who applies Vietnam’s accounting practice, has applied for tax registration and issued with a taxpayer ID number (TIN) by a tax authority. The tax payment will be done in the same way of local entities, at the VAT and CIT rates as described above.

(ii) Direct Method (paying VAT and CIT according to fixed rates):
This method is applicable when foreign contractors or sub-contractors fails to meet any of the requirements mentioned in section (i) above and the Vietnamese parties will be

responsible to deduct and pay tax on their behalf. In order to facilitate the assessment and payment of VAT and CIT, these two types of taxes are consolidated on the basis of taxable revenues.

(a) Revenue subject to VAT is total revenue from provision of services and services attached to goods subject to VAT received by the foreign contractor or foreign sub-contractor inclusive of subtracting taxes payable and any costs (if any) paid by the Vietnamese party on behalf of the foreign contractor or foreign sub-contractor. VAT rates serving the calculation of VAT imposed on taxable revenues vary subject to business lines. VAT will be calculated by multiplying the taxable revenues with the respective VAT rates as described in the below table:

No.	***Business lines***	***VAT Rate as % of taxable revenues***
1	Services, rental of machinery and equipment, insurance; construction, installation exclusive of raw materials, machinery and equipment	5
2	Production, transportation, services attached to goods; construction, installation inclusive of raw materials, machinery and equipment	3
3	Other business activities	2

(b) Revenue subject to CIT is the total revenue exclusive of VAT received by the foreign contractor or foreign sub-contractor, but inclusive of the costs paid by the Vietnamese entity on behalf of the foreign contractor or foreign sub-contractor (if any) and payable taxes. CIT rates serving the calculation of CIT imposed on taxable revenues vary subject to business lines. CIT will be calculated by multiplying the taxable revenues with the respective CIT rates as described in the below table:

No.	***Business lines***	***CIT rates as % of taxable turnover***

1	Trading: distribution, supply of commodities, raw materials, supplies, machinery and equipment; distribution, supply of commodities, raw materials, supplies, machinery and equipment associated with services in Vietnam (including those provided in the form of domestic exports, except for goods processed under processing contracts with foreign entities); supply of commodities in accordance with Incoterms	1
2	Services, equipment lease, insurance, oil and gas drilling platform	5
	Particularly: – Casino, hotel and restaurant management services	10
	– Derivative securities services	2
3	Lease of airplane, airplane engine, airplane and sea vessel accessories	2
4	Construction with or without supply of materials, machinery or equipment	2
5	Other production, business activities; Transportation (including sea and air transportations)	2
6	Transfer of securities, certificates of deposit, offshore re-insurance, commission on re-insurance assignment	0.1
7	Loan interest	10
8	Income from royalties	10

Personal Income Tax

All foreigners having incomes in/ from Vietnam, regardless the length of time they live in Vietnam, are the payers of PIT. For resident individuals, their taxable incomes are incomes earned inside and outside the Vietnamese territory, regardless of where their incomes are paid. For non-resident individuals, their taxable incomes are incomes earned in Vietnam, regardless of where their incomes are paid.

With respect to whom being present in Vietnam for a period less than 183 days, calculated within one calendar year or within 12 consecutive months from the first date of his/her stay in Vietnam or without a regular residential location in Vietnam that is a residential location for which permanent residence has been registered or a property rented pursuant to a lease for a definite term for residential purposes (so called non-resident foreigners):

(i) 1% to activities in the form of business in goods.
(ii) 5% to activities in the form of business in services.
(iii) 2% to activities in the form of production, construction, transportation and other business activities.
(iv) 20% to income from salaries and wages.
(v) 5% to income from capital investments.
(vi) 0.1% to income from capital transfers, irrespective of whether the transfer was conducted in Vietnam or abroad.
(vii) 2% to income from real property transfers.
(viii) 5% to income in the form of royalties and to income from franchises exceeding VND 10 milion/ contract.
(ix) 10% to income from winnings, inheritance or gift exceeding VND 10 milion/ occasion.

With respect to whom living in Vietnam over 183 days, calculated within one calendar year or within 12 consecutive months from the first date of his/her stay in Vietnam, or having a regular residential location in Vietnam (so called locally-resident foreigners), they will pay PIT according to the progressive tax tariff, with the maximum rate of up to 35% of their monthly income. In this case, resident individuals irrespective of whether they are foreigners or Vietnamese will be subject to the same tax scales:

Tax Bracket	***Portion of Annual Assessable Income (million VND)***	***Portion of Monthly Assessable Income (million VND)***	*Tax Rate (%)*
1	Up to 60	Up to 5	5
2	Over 60 to 120	Over 5 to 10	10
3	Over 120 to 216	Over 10 to 18	15
4	Over 216 to 384	Over 18 to 32	20
5	Over 384 to 624	Over 32 to 52	25
6	Over 624 to 960	Over 52 to 80	30

7	Over 960	Over 80	35

Assessable Income		***Tax rates (%)***
(a)	Income from capital investments:	5
(b)	Income from royalties, franchises:	5
(c)	Income from winnings:	10
(d)	Income from inheritances, gifts:	10
(e)	Income from equity transfers where it is possible to fix the purchase price plus reasonable expenses of a real property transfer: Income from transfers of securities:	20 0.1
(f)	Income from real property transfers:	2

Resident individuals are entitled to reduction based on family circumstances (i.e. a sum of money deductible from pre-tax income from business, salary or wage of a resident taxpayer), which is consisted of: Reduction of VND 9 million/ month (VND 108 million/ year) for taxpayers, and reduction of VND 3.6 million/ month for each dependent.