4. TAXATION

4.1 Corporate Income Tax

4.1.1 Calculation of corporate income tax payable:

Corporate income tax ("CIT") applies to the Foreign Investor's taxable income, defined as **total revenue within one tax period plus other relevant income (including income received from outside of Vietnam) minus deductible expenses and losses carried forward.** CIT payable then equals the taxable income multiplied by the applicable CIT rate. The standard CIT rate is 20%, except for companies operating in the oil- and gas as well as the mining sector which are subject to CIT rates ranging from 32% to 50%. Taxpayers may carry forward their full tax losses consecutively for up to five years. Losses arising from incentivised activities can be offset against profits from non-incentivised activities, and vice versa. However, a carry back of losses is not permitted. Vietnam does not recognize offsetting losses against profits on a group level but allows offsetting only within the specific legal entity even if they are 100% subsidiaries or related companies (i.e., no group consolidation or group loss relief).

Deductible expenses include all expenses required for revenue generation, which are evidenced by proper documentation (including e.g., bank transfer vouchers where the invoice value is VND 20 million or above) and not specifically identified as being non-deductible. Non-deductible expenses include, amongst others:

- Depreciation of fixed assets in violation of applicable regulations.
- Employee remuneration which is not paid, or not stated in the employment contract, collective labour agreement or the company policies.
- Staff welfare exceeding a cap of one month's average salary, including non-compulsory medical and accident insurance.
- Contributions to voluntary pension funds and life insurance for employees exceeding VND 3 million per month per person.
- Research and development reserves in violation of applicable regulations.
- Severance payments exceeding the legal maximum under the labour law.
- Overhead expenses allocated to a permanent establishment in Vietnam by the foreign company's head office which exceed the permitted amount under a prescribed revenue-based allocation formula.
- Loan interest proportionally to any charter capital not yet contributed.
- Loan interest from non-economic and non-credit organisations exceeding 1.5 times the interest rate set by the State Bank of Vietnam.

- Interest payments exceeding 30% of EBITDA.
- Provisions for stock devaluation, bad debts, financial investment losses, product warranties or construction work in violation of applicable regulations.
- Unrealised foreign exchange losses due to the year-end revaluation of foreign currency items other than accounts payable.
- Donations except for certain donations for education, health care, natural disaster or building charitable homes for the poor or for scientific research.
- Administrative penalties, fines, late payment interest.
- Service fees paid to related parties that do not meet certain conditions.

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

4.1.2 CIT Administration:

The default tax year is the calendar year. Companies are required to notify the tax authorities in case they deviate from the calendar year. Companies are required to make quarterly provisional CIT payments based on estimates. The provisional CIT payments in the first three quarters of a tax year must not account for less than 75% of the final CIT liability for the year. Any shortfall is subject to late payment interest of up to 11% p.a., counting from the payment deadline for quarter three provisional CIT. Companies must submit their final CIT returns and pay the outstanding CIT amount annually not later than the last day of the third month after the fiscal year end.

4.1.3 Capital Gains Tax:

Profits resulting from the sale of capital contributions or shares in a Vietnamese company are generally subject to 20% CIT. Although no separate tax type, this is often referred to as “capital assignment (profit) tax” or “capital gains tax”. The taxable gain is the **sales proceeds and purchase cost (or the initial nominal value of the charter capital or shares contributed) minus applicable transfer expenses.** Where the seller is a foreign entity, a Vietnamese purchaser is required to withhold the capital gains tax from the payment to the seller on behalf of the Vietnamese tax authorities. Where the purchaser is also a foreign entity, the Vietnamese entity which is transferred can ultimately be held responsible for the tax payment.

Tax declaration and payment is required within 10 calendar days from the date the parties sign the SPA, or, if official approvals are required, within 10 calendar days from such approval. Vietnamese tax authorities may adjust the purchase price for capital gains tax purposes where they believe that the purchase price is not at arm's length or where the purchase price is deemed too low and "hiding" another transaction. Whether not only the transfer of a Vietnamese entity, but also the transfer of an overseas parent (direct or indirect) of a Vietnamese company is subject to capital gains tax is disputed, with Vietnamese tax authorities often taking a broad approach to taxation. Capital gains of a local entity from the transfer of securities are taxed at 20%, except for capital gains resulting from the transfer of public companies or publicly listed securities by a foreign entity are taxed at 0.1% of the total sales proceeds.

4.1.4 Transfer Pricing Rules:

Related party definition and threshold:

Related party transactions (between both foreign and Vietnamese, including FIEs) may be subject to Vietnamese transfer pricing ("TP") rules which are governed by Decree 132/2020/ND-CP ("Decree 132"), effective since 20th December 2020. Related party transactions covered by Decree 132 include: *"purchase, sale, bartering, renting, leasing out, borrowing, lending, transfer or disposal of commodities, provision of services; financial borrowing, lending, financial services, financial guarantee and other financial instruments; purchase, sale, bartering, renting, leasing out, borrowing, lending, transfer or disposition of tangible assets, intangible assets and agreement on purchase, sale and sharing of resources such as assets, capital, labour and sharing of costs between related parties."*

Parties are related if, amongst others, i) a party is directly or indirectly involved in the management, control of, contribution of capital to, or investment in, the other party or ii) parties are directly or indirectly affected by the management, control of, contribution of capital, or investment, from the other party. Amongst others, the following ownership thresholds and control requirements apply:

- An enterprise participates directly or indirectly in at least 25% of the other enterprise's equity;
- Each of the two enterprises has at least 25% of its equity held, whether directly or indirectly, by a third party;
- An enterprise is the shareholder having the greatest ownership interest in the other enterprise, or participates directly or indirectly in at least 10% of total share capital of the other enterprise;
- An enterprise guarantees or offers another enterprise a loan under any form to the extent that the loan amount equals at least 25% of equity of the borrowing enterprise and makes up for more than 50% of total medium- and long-term debts of the borrowing enterprise.

TP methods and determination of comparables:

These include cost-plus, resale-price, profit-split and comparable profits methods. Intercompany agreements using cost-plus should define as precisely as possible the services and pricing to avoid confusion with regards to the service provider's independent position. In this regard, Decree 132 sets the acceptable arm’s length range from the 35th to the 75th percentile, with the median value at the 50th percentile.

When determining comparable prices, taxpayers must determine comparables in the following order: (i) the taxpayer’s internal comparables, (ii) comparables in the same country/market, and (iii) comparables in regional countries with similar industrial and economic standards and stage of development. Decree 132 gives the tax authorities the power to use their internal databases for TP assessment in case they find the comparables used by the taxpayer insufficient or in violation of Decree 132. Complementing this, Decree 132 also requires that TP analysis follows the “substance-over-form” rule according to which the tax authorities must determine tax liability by analysing the substance of a related party transaction rather than simply looking at its form. The tax authorities have become increasingly more sophisticated with challenging comparables used by taxpayers and are also performing increasing numbers of TP audits in case they suspect that the taxpayer had submitted incomplete or inaccurate TP documentation.

Deductible loan interest:

Under Decree 132, the total loan interest cost arising after deducting deposit interests and lending interests within a specific taxable period which is deducted during the process of determination of income subject to the corporate income tax is capped at 30% of the net profit generated from business activities within the taxable period plus loan interest costs arising after deducting deposit interests and lending interests arising within the taxable period plus depreciation/amortization expenses arising within that period of a taxpayer (EBITDA). The portion of loan interest cost which is non-deductible may be carried forward to the next taxable period for the determination of total loan interest cost deductible if total loan interest cost deductible in the next taxable period is lower than the amount prescribed in point a of this clause. The loan interest costs may be carried forward for a maximum consecutive period of five years. Excluded from the cap are i) loans of taxpayers that are credit institutions or insurance companies, ii) ODA loans and concessional loans of the Government which are granted to enterprises in the on-lending form; iii) loans intended for implementing certain national target and welfare programs.

TP documentation:

As far as an intercompany agreement constitutes a related party transaction, certain documentation requirements must be met. These include an annual declaration of related party transactions and TP methodology used, and a taxpayer confirmation of the arm's length value of their transactions (or otherwise the making of voluntary adjustments). Decree 132 requires that the TP method applied does not result in a decrease of tax liabilities to the state budget.

Taxpayers with related party transactions must prepare and maintain a comprehensive TP documentation, containing a master file, a local file and country-by-country report. Decree 132 contains a TP declaration form which requires disclosure of detailed information, including segmentation of profit and loss by related party and third-party transactions. The TP declaration forms must be submitted together with the annual CIT return. Under Decree 132, a taxpayer is exempt from preparing transfer pricing documentation if one of the following conditions is met:

- Revenue below VND 50 billion and total value of related party transactions below VND 30 billion in a tax period.
- Conclusion of an Advance Pricing Agreement (APA) and submission of annual APA report(s).
- Revenue below VND 200 billion and achieving at least the following ratios of earnings before interest and tax to revenue from the following businesses: distribution (5%), manufacturing (10%), processing (15%).
- Taxpayers with only domestic related party transactions, their related parties having the same tax rate and none of the parties enjoy tax incentives.

4.2 Foreign Contractor Tax

4.2.1 Scope:

Foreign Contractor Tax ("FCT") applies to foreign companies and individuals without a legal presence in Vietnam which earn income sourced from Vietnam on the basis of agreements with Vietnamese parties (including FIEs). In such cases, FCT is levied on payments received by the foreign contractor from Vietnam, except for the pure supply of goods (i.e., where the responsibility, cost and risk relating to the goods passes at or before the border of Vietnam and there are no associated services performed in Vietnam), services performed and consumed outside Vietnam and various other services performed completely outside of Vietnam.

However, certain distribution arrangements where foreign entities are directly or indirectly involved in the distribution of goods or provision of services in Vietnam are still subject to FCT, for example where the foreign entity retains ownership of the goods, bears distribution, advertising or marketing costs, is responsible for the quality of goods or services, determines prices or authorizes Vietnamese entities to carry out on its behalf (part of the) distribution of goods or provision of services in Vietnam.

4.2.2 FCT Rates:

The following FCWT rates apply:

Service / Industry	Deemed VAT	Deemed CIT
Supply of goods in Vietnam where seller's responsibility exceeds pure supply of goods to border and passing of full risk to buyer at border.	Exempt	1%
Services not exclusively performed and consumed outside of Vietnam	5%	5%
Services together with supply of machinery and equipment	3%	2%
Construction, installation without supply of materials, machinery or equipment.	5%	2%
Construction, installation with supply of materials, machinery or equipment.	3%	2%
Leasing of machinery and equipment	5%	5%
Restaurant, hotel and casino management services	5%	10%
Logistics and transportation services	3%	2%
Interest	Exempt	5%
Royalties	Exempt	10%
Transfer of securities	Exempt	0,1%
Insurance	Exempt	5%
Financial Derivatives	Exempt	2%

A withholding tax of 5% CIT applies to interest paid on loans from foreign entities. Offshore loans provided by certain government or semi-government institutions may be exempted from FCT under applicable double taxation or inter-governmental agreements. Interest paid on bonds (except for tax exempt bonds) and certificates of deposit issued to foreign entities is subject to 5% withholding tax.

A 10% royalty withholding tax applies in the case of payments made to a foreign party for transfers of industrial property rights. However, if the transfer of patents, technical know-how or technology processes is used as part of the capital contribution of a Foreign Investor, no FCWT applies.

With regards to transactions in which Vietnamese individuals purchase goods or services from overseas suppliers conducting e-commerce and digital-based business activities, banks and payment intermediary service companies are required i) to withhold and pay tax on behalf of the e-commerce foreign contractors on a monthly basis (if such contractors do not register to pay tax in Vietnam and ii) to keep records of overseas remittances and provide this information monthly to the tax authorities if the Vietnamese individual customers use a payment forms for which withholding is not possible, specifically credit cards.

FCT payable may be affected by double taxation agreements (“DTAs”), of which Vietnam has signed over 80 with a number of others at various stages of negotiation.

4.2.3 FCT payment methods:

Foreign contractors can choose one of the following three methods for tax payment:

- **Deduction Method:** Foreign contractors can apply for the deduction method if they (i) have a permanent establishment in Vietnam or are a tax resident in Vietnam, ii) the duration of the project in Vietnam is 182 days or more, and (iii) they adopt the Vietnamese Accounting System (“VAS”) and obtain both a tax registration and a tax code. The Vietnamese customer is required to notify the tax office that the foreign contractor will pay tax under the deduction method within 20 working days from the date of signing the contract. If the foreign contractor carries out multiple projects in Vietnam and qualifies for application of the deduction method for one project, the contractor is required to apply the deduction method for its other projects as well. The foreign contractor will pay CIT at 20% on its net profits.
- **Direct Method:** For the direct (non-deduction) method foreign contractors, VAT and CIT will be withheld by the Vietnamese customer at various rates that are specified according to the nature of the activities performed. The VAT withheld by the Vietnamese customer is generally an allowable input credit in its VAT return. Separate requirements for FCT declarations under this method are

provided for foreign contractors providing goods and services for exploration, development and production of oil and gas.

- **Hybrid Method:** Allows foreign contractors to register / pay VAT based on the deduction method but pay CIT under the direct method. Foreign contractors wishing to apply the hybrid method must: i) Have a PE or be tax resident in Vietnam, ii) operate in Vietnam under a contract with a term of more than 182 days, and iii) maintain accounting records in accordance with the VAS.

4.3 Value Added Tax

4.3.1 VAT Scope:

Value added tax ("VAT") applies to goods and services used for production, trading and consumption in Vietnam. Vietnamese companies must charge VAT on the value of goods or services supplied in Vietnam. VAT also applies on the duty paid value of imported goods. The importer must pay VAT to customs authorities at the same time they pay import duties. For imported services, VAT is applied via the FCT mechanism.

VAT payable is calculated as the output VAT charged to customers less the input VAT on purchases of goods and services. All organizations and individuals producing or trading goods and services in Vietnam must register for VAT. In certain cases, branches of an enterprise must register separately and declare VAT on their own activities. Taxpayers must file VAT returns on a monthly basis by the 20th day of the subsequent month, or on a quarterly basis by the 30th day of the subsequent quarter (for companies with prior year annual revenue of VND 50 billion or less).

No output VAT is charged but input VAT may be credited – amongst others - in case of: i) compensation, bonuses and subsidies (except those provided in exchange for certain services), ii) transfer of emission rights and certain other financial revenues, iii) certain services rendered by foreign companies which do not have a permanent establishment in Vietnam and if the services are rendered outside of Vietnam (including repairs to means of transport, machinery or equipment, advertising, marketing, promotion of investment and trade), iv) overseas brokerage activities for the sale of goods and services overseas, v) transfer of investment projects, vi) capital contributions in kind, vii) commissions from the sale of exempt goods/services and vii) goods exported and then re-imported to Vietnam due to sales returns by overseas.

VAT exemptions include: i) some agricultural products, ii) goods/services provided by individuals having an annual revenue of VND 100 million or below, iii) transfer of land use rights, iv) financial derivatives and credit services (including credit card issuance, finance leasing and factoring), v) various securities activities including fund management, vi) capital assignment, foreign currency trading and debt factoring, vii) certain insurance services, viii) medical services, care services for the elderly and disabled, ix) printing and publishing of newspapers, magazines and certain types of books, x) passenger transport by public buses, xi) transfer of technology, software and software services except exported software which is entitled to 0% rate and xii) imports of machinery, equipment and materials which cannot be produced in Vietnam for direct use in scientific research and technology development activities.

4.3.2 VAT Rates:

0%	Applies to certain exported goods and services sold to overseas or non-tariff areas and consumed outside of Vietnam or in non-tariff areas, certain goods processed for export, goods sold to duty free shops, certain exported services, construction and installation carried out for export processing enterprises, aviation, marine and international transportation services. Application of the 0% rate requires complete and proper documentation, such as contracts, evidence of non-cash payment and customs documents. Not applied to some services such as, e.g., advertising-, training-, entertainment-, hotel- and tourism services provided in Vietnam to foreign customers and services relating to trade and distribution of goods.
5%	Applies to the provision of essential goods and services, including, amongst others, clean water, certain educational and teaching materials, books and certain publications, certain unprocessed food, medicine and medical equipment, certain rubber products, sugar, husbandry feed, various agricultural products and services, certain technical and scientific services as well as certain cultural-, artistic- and sport related products and services.
10%	Applies to all other goods, services and activities not specified as VAT non-subjected, VAT exempted or subject to VAT rates of 0% or 5%.

4.3.3 VAT Invoices (“Red Invoices”):

For input VAT to be creditable, taxpayers must always obtain a proper VAT invoice. Companies can use pre-printed invoices, self-printed invoices or electronic invoices (“E-Invoices”). All VAT invoices must contain certain mandatory items and be registered with or notified to the local tax authorities before they can be used. For exported goods, commercial invoices are used instead of domestic tax invoices. E-invoices will be compulsory from 1st July 2022.

Certain “high tax risk companies” are required to use E-Invoices with a verification code continuously for 12 months. High tax risk companies are defined as those which have charter capital of less than 15 billion VND and have certain features, for example: i) Sales of goods or provision of services to related parties, or ii) non-compliance with certain tax declaration requirements, or iii) change of business location more than 2 times within 12 months without any notification or any tax declaration at the new location, or iv) companies subject to penalties for breach of invoice regulations in the last year. The “high tax risk company” status will then be reassessed after 12 months for possible approval for using e-invoices without verification code.

Industries where companies are allowed to use E-invoices without a verification code of the tax authorities will be determined based on the economic sectors as regulated such as electricity, petrol, telecommunication, transportation, credit institution, insurance, e-commerce, supermarkets, etc or other companies which satisfy certain conditions. Companies using e-invoices without verification code must transfer e-invoice data to the tax authorities, either directly or via an authorized e-invoicing service provider.

4.3.4 VAT Refunds:

VAT refunds are only granted in certain cases, including:

- Exporters having excess input VAT credits over 300 million VND. The refunds are provided on a monthly or quarterly basis, in line with the VAT declaration period of the taxpayer. The amount of input VAT relating to export sales (meeting the criteria for VAT refunds) that can be refunded to a taxpayer must not exceed 10% of its export revenue. VAT refunds are available to companies which import goods and then export them without further processing subject to various conditions.
- New projects of companies adopting VAT deduction method which are in the pre-operation investment phase and have accumulated VAT credits over VND 300 million VND. Exceptions include conditional investment projects which do not satisfy the regulated investment conditions, or investment projects of companies whose charter capital has not yet been contributed as regulated.
- Certain ODA projects, diplomatic exemption, foreigners buying goods in Vietnam for consumption overseas.

In other cases where a taxpayer’s input VAT for a period exceeds its output VAT, it will have to carry the excess forward to offset future output VAT.

4.4 Special Sales Tax

The Special Sales Tax ("SST") applies to i) the provision of certain services and ii) certain imported goods (except for various types of petrol) at both the import and selling stages. The taxable price of imported goods upon importation is the dutiable price plus import duties. Taxpayers producing SST subjected goods with SST subjected raw materials are entitled to claim a credit for the SST paid on raw materials imported or purchased from domestic manufacturers. Where taxpayers pay SST at both the import and selling stages, the SST paid at importation is creditable against SST paid at the selling stage.

The following SST Rates apply:

Products/ services	SST rate (%)
Cigar/Cigarettes	75
Spirit/Wine with ABV ≥ 20° Spirit/Wine with ABV < 20°	65 35
Beer	65
Automobiles less than 24 seats	10 – 150
Motorcycle of cylinder capacity above 125%	20
Airplanes, boats	30
Petrol	7 – 10
Airconditioners (not more than 90,000BTU)	10
Playing Cards	40
Votive Paper	70
Discotheques	40
Massage, karaoke	30
Casinos, jackpot games,	35
Entertainment with betting	30
Golf	20
Lottery	15

4.5 Import Duties

Most goods imported into Vietnam are subject to import duty which is calculated by multiplying the goods' dutiable value with the applicable import duty rate. The dutiable value of imported goods is typically based on the transaction value (i.e., the price paid or payable for the imported goods, and where appropriate, adjusted for certain dutiable or non-dutiable elements). Import duty rates are classified into three categories: ordinary rates, preferential rates, and special preferential rates.

- Preferential rates are applicable to imported goods from countries that have most-favoured-nation (MFN) status with Vietnam. The MFN rates are in line with Vietnam's World Trade Organization (WTO) commitments and are applicable to goods imported from other WTO member countries.
- Special preferential rates are applicable to imported goods from countries that have a special preferential agreement or a free trade agreement with Vietnam.

To be eligible for preferential rates or special preferential rates, the imported goods must have a certificate of origin. If goods are sourced from non-preferential treatment/non-favoured countries, the ordinary rate is charged at MFN rate plus 50% surcharge. Import VAT is added in addition at a rate of usually 10%. In addition to import duty and import VAT, SST, environment protection tax, anti-dumping tax, safeguard tax and anti-subsidy tax may be applied to a number of imported goods. The customs authorities perform regular customs audits which usually focus on matters such as e.g., accurate HS code classification and goods valuation, compliance with requirements for duty exemptions and origin of goods.

Import duty exemptions include:

- Machinery & equipment, specialised means of transportation and construction materials (which cannot be produced in Vietnam) comprising the fixed assets of encouraged investment projects.
- Machinery, equipment, specialised means of transportation, materials (which cannot be produced in Vietnam), office equipment imported for use in oil and gas activities.
- Materials, supplies and components imported for the production of exported goods and materials, supplies, components imported for processing of exports.
- Goods manufactured, processed, recycled, assembled in a free trade zone without using imported raw materials or components when imported into the domestic market.
- Materials, supplies and components which cannot be domestically produced and which are imported for the production of certain encouraged projects.
- Goods temporarily imported or exported for the purpose of warranty, repair, and replacement.

A refund of import duties is only possible for:

- Goods for which import duties have been paid but which are not actually physically imported;
- Imported goods that are not used and which must be re-exported;
- Imported materials that were imported for the production of goods for the domestic market but are later used for the processing of goods for export under processing contracts with foreign parties.

4.6 Personal Income Tax

4.6.1 Tax Residency:

Tax residents are subject to Personal Income Tax ("PIT") on their worldwide taxable income, wherever it is paid or received. Tax residents in Vietnam are individuals:

- residing in Vietnam for 183 days or more in either the calendar year or the period of 12 consecutive months from the date of first arrival, or
- having a permanent residence in Vietnam (including a registered residence which is recorded on the temporary residence card in case of foreigners, or
- having a leased house in Vietnam with a term of 183 days or more in a tax year and unable to prove tax residence in another country.

Individuals not meeting the conditions for being tax resident are considered tax non-residents. Tax non-residents are subject to PIT at a flat tax rate of 20% on their Vietnam related employment income, and at various other rates on their non-employment income. However, Double Taxation Agreements (DTAs) may apply.

The following PIT Rates apply:

Monthly Taxable Income in VND	PIT Rate
0 – 5,000,000	5%
5,000,001 – 10,000,000	10%
10,000,001 – 18,000,000	15%
18,000,001 – 32,000,000	20%
32,000,001 – 52,000,000	25%
52,000,001 – 80,000,000	30%
80,000,001 +	35%

4.6.2 Employment Income:

All "Employment Income" is subject to PIT. It includes all cash remuneration and benefits-in-kind, such as salaries, allowances, bonuses, housing- and other fringe benefits of employment paid for by the employer, including shares and other forms of company participation provided to employees. Shares and share purchase options awarded to employees are treated as employment income (bonuses) and taxed when the shares are sold or the options are exercised. In such case, the taxable income equals the value of the shares recorded in the accounting books of the employer or the market value of the shares. Employment Income does not include:

- Payments for business trips, mobile phone charges and stationery.
- Office clothes (subject to a cap if the office clothes are provided in cash).
- Payment for overtime (however the overtime premium only).
- Certain other collective benefits in kind such as membership fees, entertainment, healthcare, transportation to and from work, mid-shift meals.
- One-off relocation allowance to Vietnam for expatriates and from Vietnam for Vietnamese working overseas.
- School- and kindergarten fees up to high school in Vietnam/overseas for children of expatriates/Vietnamese working overseas
- Annual return trip airfare for expatriates and Vietnamese working overseas.
- Allowances / benefits for wedding, funeral (subject to a cap).

Tax-deductible items include:

- Contributions to certain approved charities.
- Contributions to mandatory social, health and unemployment insurance schemes and contributions to local voluntary pension schemes (subject to cap).
- A personal allowance of VND 11 million per month and a dependent allowance of VND 4.4 million per month per dependent. The dependent allowance is not automatically granted, and the taxpayer needs to register qualifying dependents and provide supporting documents to the tax authority (usually passports).

4.6.3 Non-employment income:

- **Business income (including rental income):** Any income derived from production and business activities as well as income from independent practice. Various flat rates apply, ranging between 0.5% - 5%, based on the type of business income. Business losses cannot be offset against employment income if an individual has income from both business and employment.

- **Capital investment income:** Any income earned from investing in shares, making capital contributions and lending money. Types of income from capital investment include dividends and profit shares of any kind, interest on capital deposits, bonds, securities, loan interest and similar types of income. Income from capital investment is generally taxed at a flat rate of 5% (e.g., dividends and interest income, except for bank interest).
- **Real estate income**: Income from the sale and transfer of real estate is taxed at 2% of the sales (for both residents and non-residents).
- **Income from royalties:** Any income derived from the assignment or transfer of the right to use intellectual property rights or objects including literary, artistic and scientific works, copyrights, inventions, industrial designs, trademarks, technical know-how and similar items in excess of VND 10 million (determined each time the royalties are paid) is taxed at 5%.
- **Income from franchising:** Any income exceeding VND 10 million, derived by an individual from a franchising contract under which the franchisor authorizes the franchisee to purchase / sell goods or provide services in accordance with conditions imposed by the franchisor is taxed at 5%.

  Income from winnings or prizes: Income from winnings or prizes in cash or in kind in excess of VND 10 million from lotteries, betting, casinos, promotional prizes and similar items is taxed at a flat rate of 10%.
- **Income from inheritances or gifts:** Income from the receipt of inheritances or gifts in excess of VND 10 million, including securities, contributed capital, real property and other assets required to be registered is taxed at a flat rate of 10%.

4.6.4 Non-taxable income:

- Interest earned on deposits with banks and on life insurance policies.
- Compensation paid under life/ non-life insurance policies.
- Retirement pensions paid under the Social Insurance law (or the foreign equivalent).
- Income from transfer of properties between various direct family members.
- Inheritances/ gifts between various direct family members.
- Monthly retirement pensions paid under voluntary insurance schemes.
- Income of Vietnamese vessel crew members working for foreign shipping companies or Vietnam international transportation companies.
- Income from winnings at casinos.

4.6.5 PIT Administration:

The PIT year is the calendar year. However, where in the calendar year of first arrival an individual is present in Vietnam for less than 183 days, his/her first tax year is the 12-month period from the date of arrival. Subsequently, the tax year is the calendar year. All individuals with taxable income must obtain a tax code and submit their 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. Regarding tax declarations, the following applies:

- **Employment income:** For employment income, tax has to be declared and paid provisionally on a monthly basis by the 20th day of the following month or on a quarterly basis by the 30th day following the reporting quarter. The amounts paid are reconciled to the total tax liability at the year-end. An annual final tax return must be submitted and any additional tax must be paid within 90 days of the year end. Expatriate employees are also required to carry out a PIT finalization on termination of their Vietnamese assignments. Tax refunds due to excess tax payments are only available to those who have a tax code.
- **Non-employment income:** The individual is required to declare and pay PIT in relation to each type of taxable non-employment income. The PIT regulations require income to be declared and tax paid on a receipt basis (except rental income which can be declared and tax can be paid on an annual basis). For non-employment income, PIT must be declared and paid in relation to each type of taxable non-employment income. If an individual has both business and employment income, only business income must be reported in that declaration.
- **Overseas income:** A resident individual receiving employment income paid from overseas must also file tax declarations in Vietnam. Other types of income (capital investment, capital transfer, transfer of real property, royalties, franchising, winnings, inheritances and gifts) must be declared within ten 10 days after the date the income arises or is received. PIT paid in a foreign country on the foreign income is generally creditable under applicable DTAs.