



Vietnam

Introduction

Tax residents of Vietnam are taxed on worldwide income, whereas nontax residents are taxed on Vietnam-sourced income only.

Foreigners will be subject to Vietnamese personal income tax (PIT) based on their physical presence in Vietnam and/or the source of income derived by them.

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Key messages

Employees who are present on an extended basis in Vietnam are taxed on both their employment income and their nonemployment income based on their residence status.

Income tax

Liability for income tax

A foreign person's liability to Vietnamese tax is determined by residence status. If a foreigner is present in Vietnam for more than 182 days in a tax year or the individual has a rented house or similar residence in Vietnam with the term of 90 days or more in a tax year, but cannot prove that the individual is tax resident under another jurisdiction during the same period, then the individual is treated as a tax resident of Vietnam and is taxed on the individual's worldwide income.

A nontax resident of Vietnam is an individual who does not meet the above criteria for a tax resident of Vietnam and is subject to tax on Vietnam-sourced income. Vietnamese nationals with a regular residential location are deemed to be tax residents of Vietnam.

Definition of source

Vietnam-sourced income is income earned or received in relation to the employment of that foreign individual in Vietnam, regardless of origin or country where the remuneration is paid.

Tax trigger points

Technically, there is no specific rule regarding when an assignee is treated as entering the country before the individual's assignment. In practice, the tax authority accepts that the official assignment date is the first day the assignee earns income in Vietnam, and the assignee must declare income from that day. The arrival date, however, is the first date of the first tax year in which residence status is determined.

Types of taxable income

For employees with an extended presence, the types of income that are generally taxed include employment income, income from the operation of a household business, income from capital investments, income from capital transfers, income from real estate transfers, income that is winnings or prizes, royalties, income from franchises, income from inheritance, and income from gifts.

The above types of income are assessed at different tax rates and subject to different tax compliance procedures.

For employment income and income from the operation of a household business, the progressive rates are applied and the top marginal rate of tax is 35 percent.

Tax rates

The tax rates and tax thresholds for employment income vary depending upon whether the individual is a resident of Vietnam or nonresident for tax purposes. Tax residents of Vietnam are taxed at progressive tax rates ranging from 5 percent to 35 percent. The top marginal rate is 35 percent on income earned over 80 million Vietnamese dong (VND) for tax residents of Vietnam (including both Vietnamese nationals and expatriates). Nonresidents of Vietnam are subject to tax at a flat rate of 20 percent on their Vietnam-sourced income.

Social security

Liability for social security

Foreign individuals are not liable for paying towards social security. For Vietnamese individuals, the contribution rate for the statutory social security scheme is 22 percent applied from January 1, 2010. This fund provides employees who make contributions to the fund with benefits and payments for sickness, maternity leave, work-related accident and illness, pension/retirement, and death.

From October 1, 2009, a foreign individual who signs an employment contract for three months or more with an entity in Vietnam is subject to the statutory health insurance payment. The applicable rates from January 1, 2010 are 1.5 percent for employees and 3 percent for employers.

Vietnamese employees and employers of a business entity with ten or more Vietnamese employees are required to contribute the same rate of 1 percent for unemployment insurance.

The base level used for calculation of the compulsory insurances above is capped at 20 times the minimum salary (i.e., VND14,600,000 before May 1, 2011 or VND16,600,000 from May 1, 2011).

Compliance obligations

Employee compliance obligations

Each employee is required to obtain an individual tax number and to declare the individual's dependant qualified for tax relief. In addition, an employee must complete a tax finalization return where the tax liability of an individual at year-end is greater (or less) than the sum of tax paid during the year.

Personal income tax returns are due by March 31 of the following year or within 45 days after termination. Nonresidents are required to declare the number of days they were present in Vietnam.

Employer reporting and withholding requirements

The employer must withhold the relevant percentage of the income paid to its employees and remit the tax withheld to the State Treasury no later than the 20th of the following month.

The employer finalizes PIT on behalf of its employees provided that the employees have income only from the employer and authorize the employer to finalize tax on their behalf.

Other

Work permit/visa requirements

A visa must be applied for before the individual enters Vietnam. The type of visa required will depend on the purpose of the individual's entry into Vietnam.

Foreigners working in Vietnam for three months or more are required to apply for a work permit in Vietnam, unless they are otherwise exempted under the relevant regulations.

After obtaining the work permit, the assignee can apply for a temporary resident card, which exempts the assignee from the visa when entering or exiting Vietnam during its validity. Please note that the Vietnamese Immigration Department has recently ceased to grant business visas for longer than three months for foreigners without work permits.

Double taxation treaties

In addition to Vietnam's domestic arrangements that provide relief from international double taxation, Vietnam has entered into double taxation treaties with more than 50 countries to prevent double taxation and allow cooperation between Vietnam and overseas tax authorities in enforcing their respective tax laws. This is not an automatic process. A notification applying tax exemptions or using tax credits under a double tax treaty must be filed with the Vietnamese tax authority at the beginning of the Vietnam assignment and in each calendar year. Documentation, including a certificate of tax residence in the home country, is required in order to claim a tax exemption, a tax refund, or credit for the tax paid overseas.

Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

Indirect taxes

Value-added tax (VAT) is applicable at 10 percent on taxable supplies. Lower rates of 0 percent or 5 percent may be applied to some goods or services. A VAT rate of 0 percent is applicable to foreign companies/organizations without a permanent establishment in Vietnam. A legal establishment in Vietnam that applies the Vietnamese accounting system is required to have VAT registration.

Transfer pricing

Transfer pricing, which applies to assessments from the 2006 tax year, gives the tax authority extensive powers to make transfer pricing adjustments to non-arm's-length related-party transactions or where a taxpayer fails to comply with disclosure requirements. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Local data privacy requirements

Vietnam has no data privacy laws.

Exchange control

Foreign currencies remitted out of the country are strictly controlled, and permits must be obtained from the State Bank of Vietnam. Foreigners can take out up to 10,000 US dollars (USD) (or the equivalent in a foreign currency) without having to declare the amount to customs. Amounts in excess of this must be declared. Generally, foreign currency can be remitted out of the country with proof of payment of applicable taxes.

Nondeductible costs for assignees

Nondeductible costs for both an employee and an employer include contributions that are not mandatory according to the regulations of the employee's home country and certain benefits for specific employees.

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