

Newsletter No. 65 (EN)

**Personal Income Tax
in Vietnam**

June 2009

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Personal Income Tax – Optimization of Tax Burdens in Vietnam

1. Introduction

The following paragraphs provide a brief overview on personal income taxation in Vietnam and possible strategies to reduce the individual tax burden. Terms like “Taxation of worldwide income”, “double taxation treaties” etc. are explained in the relevant context and thus an introduction to the main principles of income taxation in Vietnam is given.

However, this Newsletter can only provide a general overview and consequently not take into account any individual particularities.

2. Taxation of Personal Income

As a rule, all foreigners earning income in Vietnam are obliged to pay income tax. The taxable income and the applicable tax rates are depending on the respective length of stay in Vietnam.

Under the new Law on Personal Income Tax (“PIT Law”), one has to differentiate between residents and non-residents. This definition is not linked to the legal status of the respective foreigner (permanent resident card, visa etc.) but solely dependent on the length of the stay. A foreigner is classified a “resident of Vietnam” if he stays in Vietnam for 183 days or more during the 12 month period beginning with the date of the first entry or he has a usual place of domicile including a registered permanent address and/or a house lease contract(s) of more than 90 days in a year. Such residence is determined on a year by year basis. Otherwise, he is not a resident in Vietnam.

2.1. Tax Rates

The same tax rate applies to both Vietnamese and foreign residents. The tax rate for non-resident foreigners (see above) is 20 %. The income of resident foreigners is progressively taxed from 5% to 35% above 4,000,000 VND

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(equivalent to 160 EUR) plus 1,600,000 VND (approx. 64 EUR) for each dependant of the employee (so-called family circumstances deduction) being deducted. Law defines wide range of dependents.

Level	Average monthly income *	Rate of tax (%)
1	Up to 5,000,000 (196 EUR)	5
2	Over 5,000,000 to 10,000,000 (Over 196EUR to 392EUR)	10
3	Over 10,000,000 to 18,000,000 (Over 392EUR to 705EUR)	15
4	Over 18,000,000 to 32,000,000 (Over 705USD to 1,254EUR)	20
5	Over 32,000,000 to 52,000,000 (Over 1,254EURto 2,039EUR)	25
6	Over 52,000,00 to 80,000,000 (Over 2,039EUR to 3,137EUR)	30
7	Over 80,000,000 (Over 3,137EUR)	35

For example:

If resident taxpayer who has one child under 18 years old (his dependent) earns 15,000,000Dong (approx. 600EUR), the tax will be calculated as follows:

Taxable income = 15,000,000 – (4,000,000 + 1,600,000) = 9,400,000

PIT = (5,000,000 x 5%) + (4,400,000 x 10%) = 690,000Dong (Approx. 28 EUR)

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2.2. Taxable income

The taxable income is the amount of income that will be used to calculate the tax burden, i.e. the amount of the income that actually will be subject to taxation.

Non-resident foreigners have to pay taxes on the income sourced in Vietnam irrespective of whether such payment is made in or outside of Vietnam. Resident foreigners have to pay taxes on their worldwide income.

In order to avoid double taxation, Vietnam has signed various double taxation treaties (DTA). Where such treaties are applicable, the taxation of the world wide income of one taxpayer will be split between the relevant countries. This way all taxable income might or will be taxed. Once at least but once only.

Nevertheless it should be stated that tax authorities are not always aware of the existence of such treaties and even less of their specific regulations. The DTA is not automatically applied by the tax authorities unless the taxpayer requests so. Therefore contact to local tax authorities and knowledge of their administration procedures can prove to be a useful tool to avoid time-consuming conflicts later on. Should the taxpayers have questions or queries arising then they can send an Official Letter to the tax authorities to request the answer, In principle, response from the tax authorities will be within 3 weeks.

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3. Allowances which are not subject to personal income tax

The following allowances will be deducted from the total income to arrive at the taxable income (no personal income tax will be levied on such payments). For a comprehensive overview please see Appendix I.

3.1. One return flight ticket to the home country of the foreign employee

Cost of one return air ticket paid by the employer for a foreign employee to return home for holiday once per year. The basis for confirming this item shall be the labour contract and the price recorded in the air ticket from Vietnam to the country of the foreigner's nationality or to the country where the foreigner's family lives.

3.2. Relocation

One-off regional transfer allowances for foreigners coming to reside in Vietnam. The amount of this permissible allowance shall be based on the labour contract or agreement between the employer and employee.

3.3. Schooling

School fees for general level schools in Vietnam for children of a foreigner paid by the employer, based on the labour contract and vouchers proving payment of such fees.

3.4. Housing

Residential housing rent paid by an employer on behalf of an employee shall be included in taxable income at the amount of such rent actually paid but not exceed 15% of the total taxable income (excluding such rent).

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3.5. Transportation

Expenses for a vehicle to collect a collective of employees from their homes and bring them to work and vice versa shall not be included in taxable income of such employees. However, if the vehicle is only used to transfer one individual at a time, then such expenses must be included in the taxable income of such individual.

3.6. Membership expenses

Expenses paid for membership fees such as membership cards of golf and tennis clubs, and activity cards for cultural, artistic and sports clubs and so forth shall only be included in the taxable income of each individual user if they record the real name of such individual user or a group of individual users. These expenses shall not be included in taxable income if they are used generally and do not record the name of the individual user or group of individual users.

3.7. Training

Expenses paid for training to raise professional skills of employees shall not be included in the income of such employees. However these expenses must be included in the taxable income of an employee if the training is not for the professional sector of such employee or is not mentioned in the employer's plan.

3.8. Mid-shift meals

Money for mid-shift meals shall not be included in the taxable income of employees if the employer directly arranges mid-shift meals for its employees.

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If the income-paying entity does not directly arrange the mid-shift meals but pays the allowance directly to employees, it shall not be included in taxable income of the employees if the amount is consistent with guidelines of the Ministry of Labour, but any excess above the stipulated amount must be included in the taxable income of employees.

Important notes:

The above benefits (from 3.4 to 3.8) to which an employee is entitled shall only be included in taxable income when the specific individual so entitled is determinable, and shall not be included in taxable income of any individual when the specific individual entitled is indeterminable.

4. Summary:

Vietnam's tax regime is rapidly developing and constantly getting more sophisticated. Tax free income, the dream of many employees, is therefore a very rare breed. Nevertheless, the outlined possibilities can add to the attractiveness of a reasonable, that is cost reducing, expat-package. However any tax-planning should be made in advance and with regard to the fast evolving legal background of Vietnam.

In order to treat the economic slowdown, the income of the resident taxpayers is exempted for the first 6 months of 2009. For the last six months of 2009, only some of incomes arising from non-employment is exempted (irregular income) i.e. capital investment, securities transfer, royalties and income arising from franchising.

Should you have any query, please us know.

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Appendix I

Allowances and subsidies which are deductible from salary when determining taxable income shall comprise:

(a) Allowances for people having contributed to the revolutionary cause in accordance with the law on preferential treatment for such people, including allowances and subsidies for war invalids, ill soldiers and relatives of war martyrs; allowances and subsidies for senior officials who took part in revolutionary activities; and allowances and subsidies for heroes of the armed forces, labour heroes, Heroic Vietnamese Mothers and so forth.

(b) National defence and security allowances as stipulated by law.

(c) Allowances as stipulated in the *Labour Code*, comprising:

- Allowances for toxicity and danger applicable to trades, lines of business or jobs at workplaces involving toxic or dangerous elements.

- Attraction allowances for new economic zones, economic establishments and remote islands with specially difficult living conditions.

- Regional allowances as stipulated by law for people working in remote or unfrequented areas with an unfavourable climate.

(d) Allowances as stipulated in the *Law on Social Insurance* and *Labour Code*.

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- Subsidies for one-off difficulties, subsidies for labour accidents and occupational diseases.
- One-off subsidies on the birth or adoption of a child.
- Subsidies due to reduction in ability to work.
- One-off subsidy on retirement, monthly widow's subsidies.
- Retrenchment or loss of work subsidies, unemployment subsidies.
- Other subsidies paid by the Social Insurance Fund.

(dd) Allowances to resolve social evils in accordance with law.

(in accordance with Article 4 of Decree 100/2008/ND-CP dated 8 September 2008 making provisions of implementation on Law on Personal Income Tax 2008

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Appendix II

Income which is tax exempt:

1. Income from real property transfers as between husband and wife; as between parents and children including foster parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
2. Income from transfer of a residential house or right to use residential land and the assets attached to the land by an individual who owns only one sole residential house [and/or] residential land use right in Vietnam.
3. Income from the value of a land use right of an individual to whom the State allocated such land without payment of, or with reduced land use fees in accordance with law.
4. Income being receipt of an inheritance or gift of real property as between husband and wife; as between parents and children including foster parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
5. Income of a family household or individual directly engaged in agricultural production, forestry, salt mining, raising animals, cultivating crops, fishing or aquaculture where the produce has not yet been processed into other products or has only been preliminarily processed. Family households and individuals directly engaged in agricultural activities as stipulated in this clause means those who satisfy the following conditions:

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(a) They have a legal land use right or water surface use right for production and they directly participate as workers in the agricultural production, forestry, salt mining, raising animals, cultivating crops or aquaculture. Family households and individuals engaged in fishing or aquaculture must own or have the right to use a boat or fishing facility and directly participate in the fishing or aquaculture.

(b) They must in fact reside, pursuant to the law on residence, in the locality where such agricultural production, forestry, salt mining, raising animals, cultivating crops or aquaculture takes place.

6. Income from conversion of agricultural land by a family household or individual to whom the State allocated such land for production.

7. Income being interest on money deposited at a bank or credit institution, and income being interest from life insurance policies.

8. Income being foreign currency remitted by overseas Vietnamese.

9. Income being that part of night shift or overtime salary payable which is higher than the day shift or normal working hours salary stipulated by law.

10. Income being pensions paid by the Social Insurance Fund pursuant to the *Law on Social Insurance*. Individuals living in Vietnam shall be exempt from tax on pensions paid by foreign [countries].

11. Income being scholarships, comprising:

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- (a) A scholarship received from the State Budget.
 - (b) A scholarship received from a domestic or foreign organization pursuant to its program to assist and promote study.
12. Income being compensation payments from life and non-life insurance contracts, compensation for labour accidents, State compensation payments and other compensation payments paid pursuant to law.
13. Income receivable from charitable funds which the State authorities permit to be established or which they recognize, and which are for charitable or humanitarian purposes and not for profit-making purposes.
14. Income receivable from foreign aid sources for charitable or humanitarian purposes in both Government and non-Government forms and approved by the State authorities.

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We hope that the information provided in this brochure was helpful for you. If you have any further questions please do not hesitate to contact us.

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