Investment in CLMV

Tax & Regulatory Updates

Cambodia - Lao PDR - Myanmar - Vietnam

16 January 2019

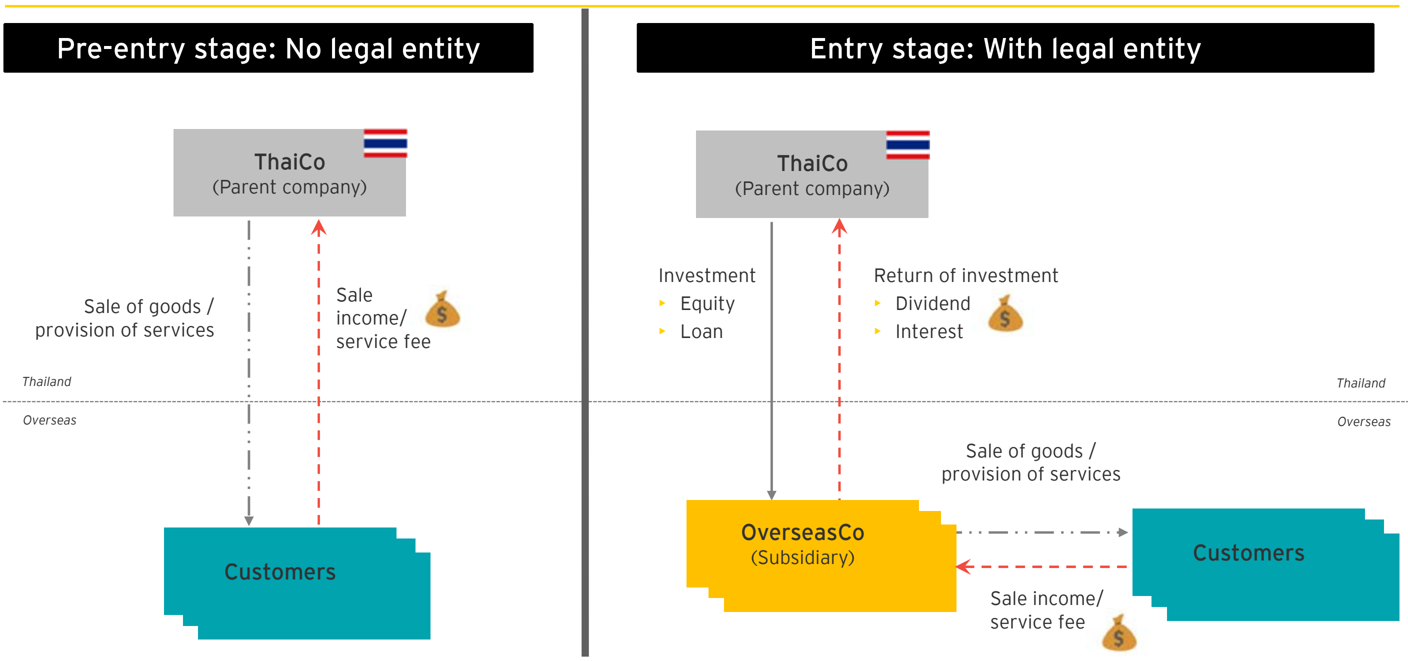
Building a better working world

Discussion topics

- I. Transaction overview
- II. CLMV tax rates
- III. Taxation and regulatory updates in CLMV

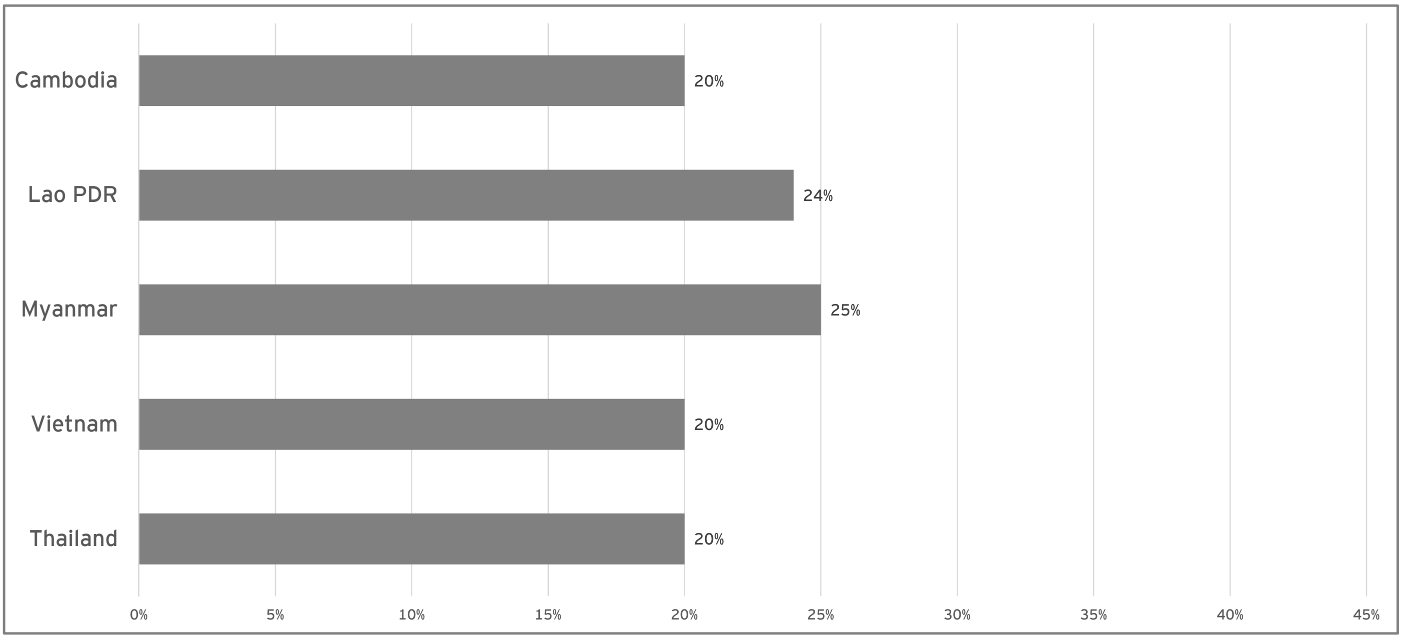
Transaction overview

Transaction overview

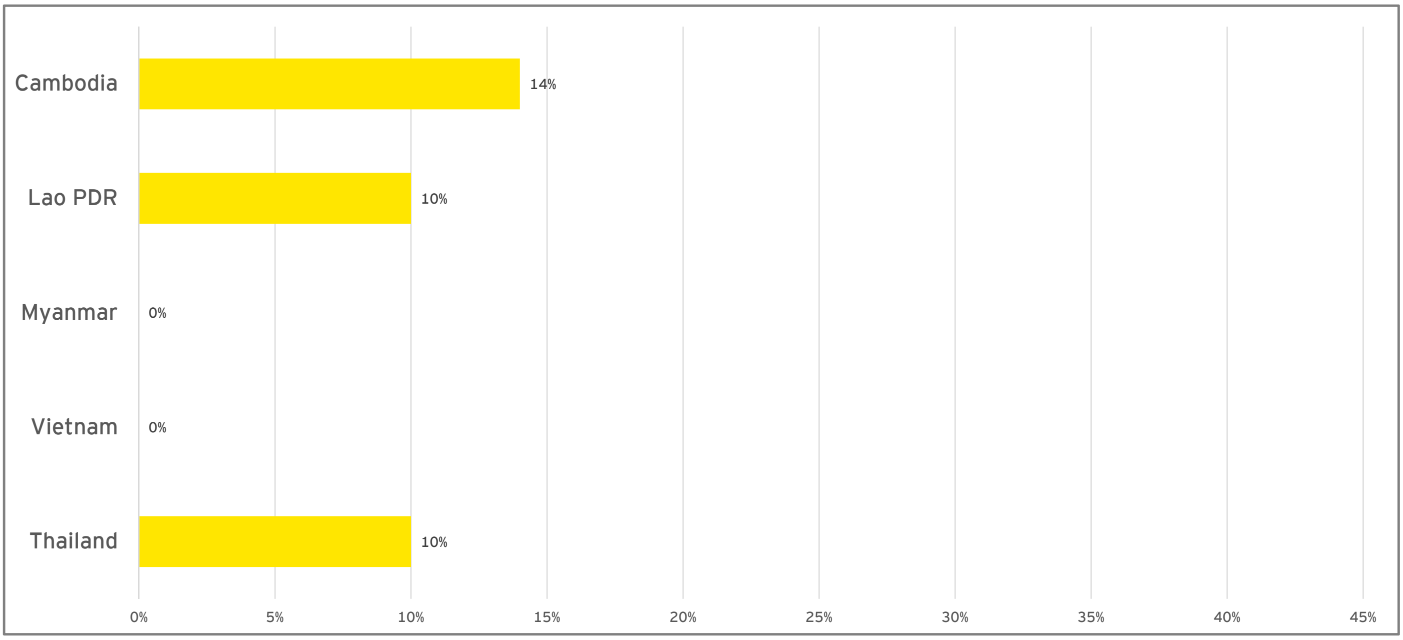


CLMV tax rates

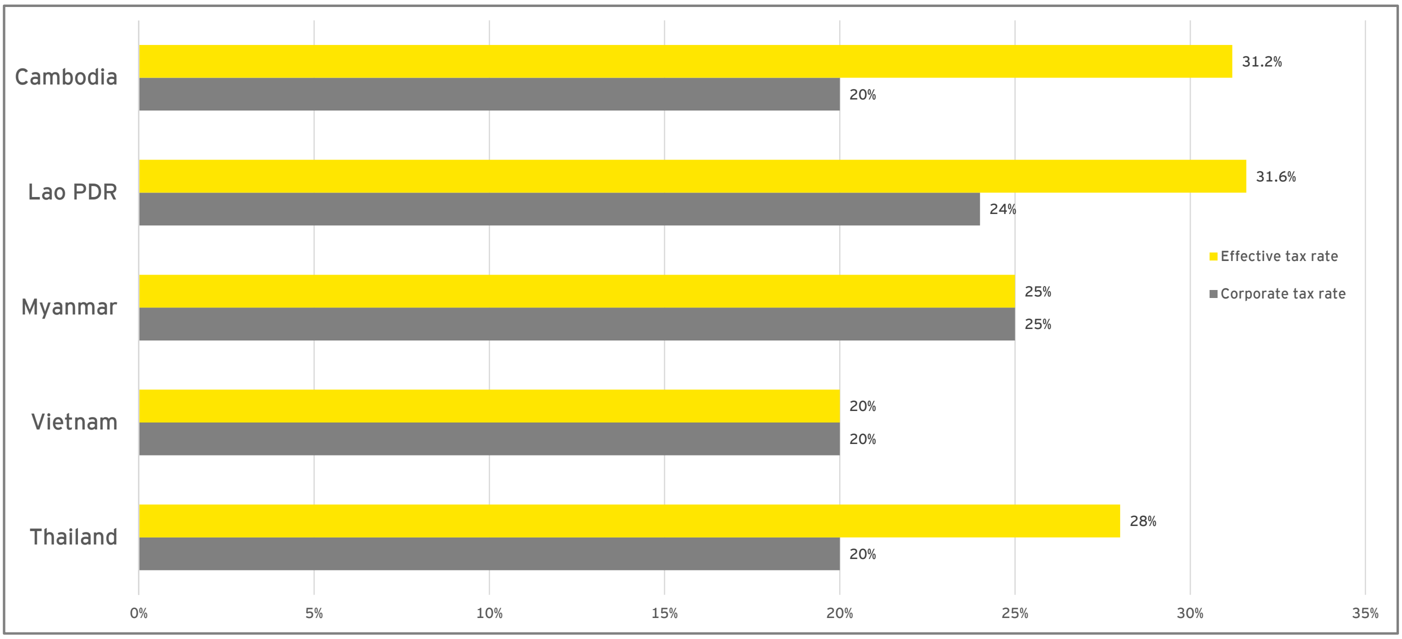
Corporate income tax rate



Dividend withholding tax rate

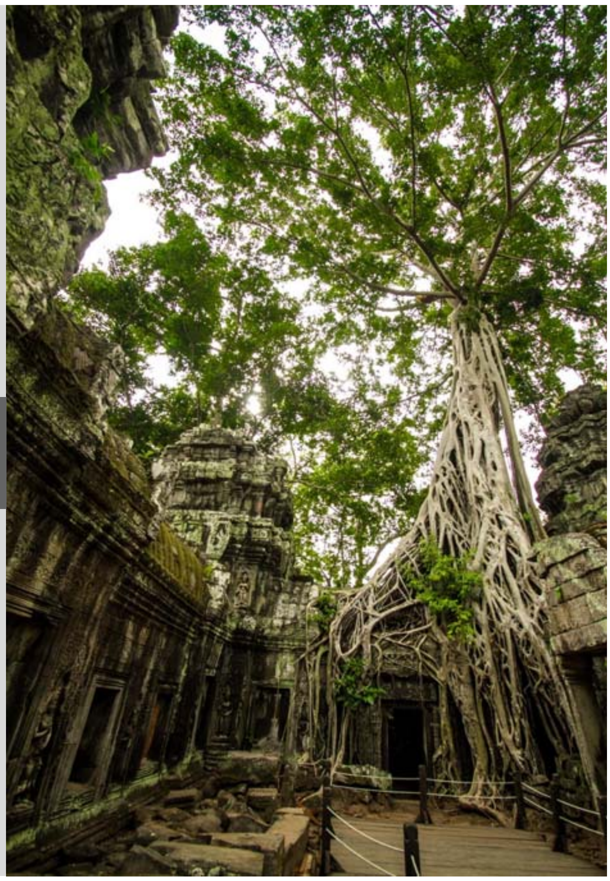


Effective corporate income tax rate



Taxation and regulatory updates in CLMV

CAMBODIA



Business set-up considerations

Applicable laws	▶ Law on Commercial Enterprise (LCE) ▶ Law on Investment (LOI)

Common type of entities for foreign investors	▶ Limited Liability Company (LLC)
	  ▶ Private limited company: 2 – 30 shareholders
	  ▶ Single member private limited company: 1 shareholder
	  ▶ Public limited company: More than 30 shareholders
	▶ Branch office / Representative office
	▶ Joint-Venture: Foreign ownership is limited to 49%

Relevant authorities	▶ Ministry of Commerce (MOC) ▶ General Department of Taxation (GDT) ▶ Ministry of Labour and Vocational Training (MLVT)

Foreign ownership restrictions	▶ Generally: No restrictions
	▶ Exception: Activities under Negative List; e.g.,
	  ▶ Production/processing of psychotropic and narcotic substances
	  ▶ Poisonous chemicals, agriculture pesticides/insecticides and other similar goods made from chemical products
	  ▶ Processing and production of electricity from imported waste
	  ▶ Forestry exploitation prohibited by the forestry law

Land ownership restrictions	▶ Prohibited for foreigners ▶ 51% shares owned by Cambodians needed ▶ Up to 50 years lease period

Cambodia taxes
Major tax systems

Patent tax	▶ Fixed business tax applied upon initial business registration and annually
	▶ Rates
	  ▶ Small taxpayer: KHR 400,000 (approximately USD 100)
	  ▶ Medium taxpayer: KHR 1,200,000 (approximately USD 300)
	  ▶ Large taxpayer: KHR 3,000,000 or KHR 5,000,000 (approximately USD 750 or USD1,250 if the annual turnover exceeds KHR 10,000 million (USD 2.5 million)

Tax on Income & Minimum Tax	▶ Taxpayer will be subject to either TOI (similar to corporate income tax) or MT whichever is higher
	▶ TOI rate
	  ▶ 20% on ***net profit***
	▶ MT rate
	  ▶ 1% of ***annual turnover***
	  ▶ MT exemption if accounting records are maintained properly (effective from 2017)

Prepayment of Tax on Profit	▶ Prepaid tax which can be used to offset against TOP or MT ▶ Rates ▶ 1% of monthly turnover

Tax losses	▶ Tax loss carry forward: 5 years
	  ▶ No change in ownership
	  ▶ No change in business objectives
	  ▶ Not subject to a unilateral tax assessment

Cambodia taxes (Cont'd)

Major tax systems

Value Added Tax

- Applicable on sale of goods and provision of services in Cambodia
- Standard rate: 10%
- Export of goods/services: 0%
- No VAT reverse-charge/self-assessment mechanism as yet
- Output VAT and input VAT: Offset/credit system

Withholding Tax

Type of payment	To resident	To non-resident (3)(4)
Services	15% (1)	14%
Royalties	15%	14%
Interest	15% (2)	14%
Rental	10%	14%
Dividends	N/A	14%

Notes

(1) No withholding tax if paid to registered taxpayer with VAT invoice

(2) No withholding tax if paid to Cambodian bank

(3) Possible exemption/reduction under tax treaties

(4) From 1 January 2017, 14% withholding tax is applicable to most of the payments of Cambodian sourced income from resident payer to non-resident.

Tax on Salary & Tax on Fringe Benefits

- Resident employee: Staying in Cambodia 183 days or more in the current tax year
  - Tax base: Cambodian-sourced and foreign-sourced salary income (worldwide income)
  - Rate: Progressive rates from 0% - 20%
- Non-resident employee: Staying in Cambodia less than 183 days in the current tax year
  - Tax base: Cambodian-sourced salary income only
  - Rate: 20% flat rate
- Fringe benefits: Company's car, accommodation, school fee, loan with low interest, etc.
  - Rate: 20% on total value of benefits (e.g., goods, services, other benefits) either in cash or in kind other than salary received as a result of the employment

Investment incentives

Qualified Investment Project: QIP / Special Economic Zone: SEZ

QIP

- Main conditions: Investment amount in the range of KHR 400 million to KHR 32 billion depending on the types of activities
- Minimum tax exemption if maintaining proper accounting record
- Tax on profit exemption OR special depreciation allowance
  - Tax on profit exemption up to 6 years plus another 3 years priority period (depending on the type of business and separate approval is needed); OR
  - Special depreciation allowance of 40% of the value of assets used in the QIP business
- Import duty exemption on equipment, construction materials, raw materials, goods and accessories for manufacturing
- Export duty exemption
- Relaxation on expatriates employment
- Longer land lease period (normal period is 50 years)

SEZ

- Main conditions: Projects located in the SEZ only, e.g., Dragon King SEZ, Kampot SEZ, Phnom Penh SEZ, Sanco Poi Pet SEZ, Sihanoukville Port SEZ, etc.
- Same privileges as those under the QIP
- 0% VAT upon importation for re-export **(in addition to QIP privileges)**

Additional Profit Tax on Dividend Distribution

- Applicable to the companies distributing the dividend from the profits which have not been subject to tax in Cambodia (e.g., a company entitled to tax incentives under QIP and SEZ)
- Rate: 20% on dividend amount
- Tax privileges under QIP and SEZ may be only the tax deferral unless no dividend is distributed to its shareholders but the profits are used for re-investment

Recent updates and hot topics

Topics	Descriptions
Introduction of TP rules October 2017	▶ Effective as from October 2017, the GDT has issued the TP rules, which requires taxpayers to set the pricing, terms and conditions associated with their related party transactions as if these transactions were entered into with the third parties. ▶ Maintaining TP documentation is strongly encouraged from FY2017 onwards and taxpayers are expected to update their documentation annually. Five OECD-recognized TP methodologies are accepted. ▶ The GDT is expected to introduce a separate TP disclosure form that taxpayers will be required to complete and file with their annual corporate income tax returns.
Effective of the first 2 DTAs January 2018	▶ The DTA between Cambodia and Singapore and that between Cambodia and Thailand have become effective in January 2018. ▶ An approval from the GDT is required before claiming the benefits under the DTA.
TP disclosure form February 2018	▶ The GDT has released an updated related party disclosure form (Annex 1) to be attached to the annual Tax On Income (TOI) return, starting from 2017 calendar year. The first applicable filing is due on 31 March 2018. ▶ The required information include, but not limited to, the names and countries of residence of the related parties, descriptions and value of the related party transactions (i.e., revenue and sales, expense and purchases and loan).
Interest-free loans August 2018	▶ Previously, interest-free loans between related parties are permitted if the loan agreement was provided to the General Department of Taxation (GDT) within 30 days of the effective date of the said agreement. ▶ Effective as from 21 August 2018, the GDT requires an arm's-length interest rate on related-party loans.

LAO PDR

Business set-up considerations

Applicable laws	▶ Amended Law on Investment Promotion No. 14/NA issued by National Assembly dated 17 November 2016 ▶ Amended Law on Enterprise No. 46/NA issued by National Assembly dated 26 December 2013
Common type of entities for foreign investors	▶ Limited Liability Company (LLC) ▶ Sole Limited Company: only 1 shareholder ▶ Limited Company: 2 to 30 shareholders ▶ Branch office / Representative office
Relevant authorities	▶ Ministry of Planning and Investment ▶ Ministry of Investment and Commerce ▶ Other Ministries
Foreign ownership restrictions	▶ Reserved to Lao national only: Activities with small investment and not require high-technology ▶ Allowable business activities: Only those with significant investment amount, e.g., ▶ Manufacturing: Pharmaceutical products ▶ Construction: Infrastructure, e.g., road, bridge, excavation and landfill ▶ Wholesales and retails ▶ Transportation and warehouse ▶ Accommodation: 3 - 5 stars hotel ▶ Finance and insurance: Commercial bank and branch ▶ Others: Architecture, engineering and medical business
Land ownership restrictions	▶ Prohibited for foreigners ▶ Up to 50 years lease period for land concession granted by the government with extension subject to an approval ▶ Up to 30 years lease period for land leased by private landlord with extension subject to an approval

Lao taxes
Major tax systems

Profit tax (Corporate income tax)	▶ Standard tax rate: 24% ▶ Income and expense recognition: Accrual basis ▶ Tax losses carry forward: 3 years	
Income tax	▶ Royalty - 5% ▶ Dividend - 10% ▶ Interest - 10%	▶ Capital gains - 10% ▶ Employment income - 0% - 24% ▶ Other income - 5% / 10%
Withholding profit tax & Withholding VAT	▶ Applicable to a foreign contractor/investor engaging in the business in Laos but not having a legal entity in Laos, e.g., construction projects and provision of services ▶ The payer of income in Laos will deduct and declare the Lao taxes on behalf of the foreign contractor/investor ▶ Withholding VAT - 10% ▶ Withholding profit tax rate varies: - ▶ Manufacturing - 0.72% ▶ Commerce/transportation - 1.2% ▶ Construction - 2.4% ▶ Exploration drilling/filling land - 3.6%	▶ Entertainment - 6% ▶ Agent service - 4.8% ▶ Advisory/other services - 2.4%
VAT	▶ Standard rate: 10% ▶ Export and import of materials, equipment and machinery which cannot be produced domestically: 0% ▶ Input VAT is creditable against output VAT	

Lao taxes (Cont'd)
Major tax systems

Tax treaty networks	Brunei	Malaysia	South Korea	Singapore
	China	Myanmar	Thailand	Indonesia
	Luxembourg	Vietnam	Belarus	
	▶ Tax treaty benefits are not granted automatically. ▶ Currently, there is no official instructions issued by the Laos Government as yet on the implementation of the tax treaties. ▶ An advanced tax ruling from the tax authority should be obtained prior to applying the treaty rates which could take approx. 2 months. ▶ The sample supporting documents to be submitted to the tax authority are the contract and invoices.			
Recent updates, hot topics and practical issues	**Recently proposed updates** ▶ VAT Law have been amended by National Assembly which is expected to be in effect soon. ▶ New separate laws on excise tax and income tax have been studied by National Assembly and shall be issued soon. **Hot topics** ▶ VAT on banking and financial activities ▶ Input VAT deduction on non-direct business activities (e.g. finance, management, HR, etc.) ▶ No instruction issued yet on implementation of tax treaties in Lao PDR **Practical issues** ▶ The determination of residency status ▶ The overlap between profit tax and income tax on corporate income			

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Investment incentives

Zone	Sector	Profit tax	Land rental fee	Other incentives
1 Socio-economic infrastructure not favorable for investment	# 2: Green agriculture # 3: Green agriculture product processing # 5: Education, sport and human resource # 6: Hospital, medicine, medical equipment	15 years exemption	15 years exemption	▶ Custom duty exemption on importation of certain assets which cannot be produced in Laos ▶ 0% VAT upon importation of certain assets which cannot be produced in Laos ▶ Custom duty exemption on importation of raw materials, equipment, and parts used for production of goods for re-export ▶ 0% VAT on importation of raw materials, equipment, and parts used for production of goods for re-export ▶ Profit tax exemption in the next accounting year if the retained earning is used for re-investment for expansion of the business operations
	# 1: High and modern technology # 4: Natural, cultural and historical tourism # 7: Infrastructure development # 8: Micro financial institutions # 9: Modern trade center	10 years exemption	10 years exemption	
2 Socio-economic infrastructure favorable for investment	# 2: Green agriculture # 3: Green agriculture product processing # 5: Education, sport and human resource # 6: Hospital, medicine, medical equipment	7 years exemption	8 years exemption	
	# 1: High and modern technology # 4: Natural, cultural and historical tourism # 7: Infrastructure development # 8: Micro financial institutions # 9: Modern trade center	4 years exemption	5 years exemption	
3 Special economic zone	All sectors	Special incentives based on the specific regulations and concession agreement with the government		

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MYANMAR

Business set-up considerations

Applicable laws	▶ Myanmar Companies Law (MCL) ▶ Myanmar Investment Law (MIL) ▶ Special Economic Zone Law (SEZL)
Common type of entities for foreign investors	▶ Limited Liability Company ▶ Branch office ▶ Representative office
Relevant authorities	▶ Directorate of Investment and Company Administration (DICA) ▶ Myanmar Internal Revenue Department (MIRD) ▶ Myanmar Investment Commission (MIC)
Foreign ownership restrictions	▶ Generally: No restrictions ▶ Exception to those specifically listed under the MIL and MIC Notification as follow: - ▶ Group A: Only reserved to Myanmar Government, e.g., manufacture of products related to security and defense ▶ Group B: Strictly prohibited to foreigners, e.g., fresh water fisheries, refinement of minerals, exploration of jade/gems ▶ Group C: Possible with Myanmar joint venture, e.g., manufacture and local sale of plastic goods, manufacture/processing of food products, manufacture/bottling and local sale of sprits, alcohol and non-alcohol beverages ▶ Group D: Possible with approval from relevant Myanmar ministries, e.g., telecommunication services, certain construction activities, retail and wholesale activities
Land ownership restrictions	▶ Prohibited for foreigners ▶ Maximum lease period of 50 years plus 10 years twice

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Highlights of new Myanmar Companies Law
Effective August 2018

Topics	Myanmar Companies Act (Old)	Myanmar Companies Law (New)
Definition of foreign company	▶ A foreign investor holding 1 share in a local-established company is considered as a foreign company	▶ Allowing foreign investors up to 35% shareholding in a local-established company ▶ A local-established company with more than 35% foreign ownership is defined as a foreign company
Registration requirement for foreign investor doing business in Myanmar	▶ Not required	▶ Foreign companies carrying on the business in Myanmar are required to register with the DICA
Minimum number of shareholder	▶ 2 shareholders	▶ 1 shareholder
Minimum number of director and resident status	▶ 2 directors ▶ No restriction on the resident status	▶ 1 director ▶ Must be ordinarily resident in Myanmar (residing in Myanmar more than 183 days in 12-month period from the date of commencement of the MIL (for existing company); or registration of new company)
Corporate documents	▶ Memorandum of Association / Articles of Association	▶ Single Company Constitution
	▶ Permit To Trade required	▶ Permit To Trade no longer required
Other requirement	-	▶ Existing companies operating in Myanmar are required to re-register with the DICA

Myanmar taxes
Major tax system

Fiscal year	▶ 1 April to 31 March (to be changed to 1 October – 30 September) ▶ No alternative fiscal year allowed

Corporate income tax	▶ Tax rate: 25%
	▶ Advance tax on imported items: 2% (creditable)
	▶ Income and expense recognition: Accrual basis
	▶ Tax losses carry forward: 3 years
	▶ Tax incentives:
	  ▶ Myanmar Investment Laws (MIL): 3 - 7 years exemption (depending on the zone) / import duty exemption / Etc.
	  ▶ Special Economic Zone (SEZ) Laws: 5 years exemption (promoted zone) / 7 years exemption (exempted zone) / additional 50% tax reduction / import duty exemption / 5-year loss carry forward / Etc.

Capital gain tax	▶ 10% (for resident and non-residents) ▶ Income from capital gains is assessed separately from business income ▶ Capital loss cannot be treated as deductible expenses for corporate income tax calculation purpose

Withholding tax

Type of payment	To resident	To non-resident (*)
Services	- (**)	2.5%
Royalties	10%	15%
Interest	-	15%

Type of payment	To resident	To non-resident (*)
Dividends	-	-
Purchase of goods	- (**)	-

(*) The rate could be reduced/exempt under tax treaties if no PE
(**) Effective from 1 July 2018 (except for government project)

Myanmar taxes (Cont'd)
Major tax system

Commercial tax	▶ 5% rate (mostly)
	▶ Applicable to sale of goods in Myanmar, provision of services in Myanmar, and importation of goods
	▶ Commercial tax registration is required on an annual basis if the total income which is subject to commercial tax exceeds MMK 50 million within a Myanmar fiscal year
	▶ Commercial tax is not a Value Added Tax (VAT) with full credits system. Only partial offset system is available with conditions
	▶ Generally, creditable if: -
	  ▶ Sales of goods (for trading/manufacturing business) – paid to local suppliers, paid for imported goods, paid for services fee
	  ▶ Provision of services (for services business) – paid for expenses used to provide services, paid to local suppliers, paid for imported goods

Personal income tax	▶ No tax if net annual income is MMK 4.8 million or less in any Myanmar fiscal year
	▶ Resident foreigner: Staying in Myanmar for 183 days or more in a Myanmar fiscal year
	  ▶ Subject to personal income tax on worldwide income at the progressive rate ranging from 0% to 25% on the net assessable income less deductions, e.g., personal/family allowance, life insurance premium, social security contribution
	▶ Non-resident foreigner: Staying in Myanmar for less than 183 days in a Myanmar fiscal year
	  ▶ Subject to personal income tax at progressive rate on Myanmar sourced income but without any deductions

Tax treaty networks	Lao PDR, Singapore, Vietnam, South Korea, Bangladesh (*) Malaysia, Thailand, India, United Kingdom, Indonesia (*) ▶ Tax treaty benefits are not granted automatically but an approval is required (*) Signed but not ratified yet ▶ The request letter together with the supporting documents, e.g., tax residency certificate, invoice, draft / signed contract, and corporate documents of the non-resident company must be submitted to the MIRD

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Recent updates and hot topics

Topics	Descriptions
New fiscal year for state-owned enterprises and banking industries April 2018	▶ State-owned enterprises and banking industries must follow the new financial year from 1 October to 30 September while other taxpayers continue to follow the old financial year from 1 April to 31 March.

Trading allowed for foreigner
May 2018
	▶ Under the Ministry of Commerce Notification 25/2018, 100% foreign owned companies and JV companies between Myanmar citizens and foreigners are allowed to carry out retail and wholesale trading activities in Myanmar subject to business registration and minimum capital requirements.
	▶ Minimum capital requirements for 100% foreign owned companies: -
	  ▶ USD 3 million for retail trading activities
	  ▶ USD 5 million for wholesale trading activities
	▶ Minimum capital requirements for JV companies (with at least 20% Myanmar shareholding): -
	  ▶ USD 0.7 million for retail trading activities
	  ▶ USD 2 million for wholesale trading activities
	▶ Foreign owned companies and JV companies not allowed to operate stores smaller than 929 Sqm.

New Myanmar Companies Law August 2018	▶ Effective of changes under the new Myanmar Companies Law
New fiscal year for all companies October 2019	▶ Subject to an official announcement, the Myanmar fiscal year may be changed to the new fiscal year from 1 October to 30 September.

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Practical issues

Topics	Descriptions
Practical issues	► Claiming tax treaty benefits ► Approval process is long-drawn. In practice, withholding tax is deducted by Myanmar payer of income and the foreign non-resident company will request for a tax refund which is also a long drawn process. ► Ambiguous tax system ► No clear definition on tax-deductible expenses ► Limited official English translation in Myanmar tax laws, notifications and forms ► Lack of clarifications and decision mainly based on case-by-case basis ► Common issue for claiming tax deduction ► Some expenses are not allowed as tax deductible expenses unless the related tax are duly paid, e.g., rental expenses (if stamp duty is not duly paid), staff cost (if personal income tax is not duly paid), service fees (if the withholding tax obligation is not complied). ► Withholding tax exemption on offshore services ► Withholding tax on offshore services (i.e., non-resident service provider wholly rendered services outside of Myanmar) should not be subject to 2.5% withholding tax. However, in practice, obtaining an approval for withholding tax exemption from the Myanmar tax authorities is a long drawn process which may delay the payment from Myanmar.

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VIETNAM

Business set-up considerations

Common type of business for foreign investors	▶ Limited Liability Company or Joint Stock Company ▶ SMEs(*): Having employees contributing in social insurance of no more than 200 and satisfying one of the below two criteria will be entitled to lower tax rate, simplified accounting system, credit access support: - ▶ Total capital not exceeding VND 100 billion (approximately USD4.4 million); OR ▶ Total revenue of the preceding year not exceeding VND 300 billion (approximately USD13.2 million) ▶ Public-private partnership ▶ Business Cooperation Contract ▶ Representative office (*) Effective from 1 January 2018
Relevant authorities	▶ Licensing authorities: local Department of Planning and Investment, Management board of EPZ, EZ, IP ▶ Tax authorities (for tax incentive confirmation if needed): Local Tax Department / General Department of Taxation
Foreign ownership restrictions	▶ Generally: No restrictions ▶ Exception: ▶ Conditional sectors, e.g., national defense and security, social order and safety, social ethics and public health, etc. ▶ Certain business sectors under WTO, ASEAN Framework Agreement on Services (AFAS), and FTAs
Land ownership restrictions	▶ Prohibited for foreigners ▶ Ways for foreigners to use land in Vietnam ▶ The State will grant the land use/lease rights to land users including the foreign-invested companies ▶ Housing ownership is allowed with certain limitation, e.g., 30% of entire apartment building

Vietnam taxes
Major tax system

Corporate income tax (CIT)	▶ Tax rate: 20% ▶ Income and expense recognition: Accrual basis ▶ Tax losses carry forward: 5 years
Foreign contractor tax (FCT)	▶ Applicable on the payments made from Vietnam to foreign company engaging in the business in Vietnam (project / services) without a legal entity in Vietnam ▶ Common payment subject to FCT: Royalty and license fee / sale of goods through border-gate / leasing of machinery and equipment / interest / services / construction services ▶ Consisting of corporate income tax and VAT ▶ Method of tax calculation: Actual method / Deemed method (commonly used) / Hybrid method ▶ Rate: Depending on the type of payment and declaration method
VAT	▶ Standard rate: 10% ▶ Special rate: 5%, 0% or exempted (certain essential goods/services, e.g., books, medicines, medical, agricultural products, etc.) ▶ Export: 0% ▶ Input VAT is creditable against output VAT with sufficient supporting documents ▶ VAT refund: Eligible for certain cases only and subject to tax audit
Personal income tax	▶ Tax resident in Vietnam: Subject to tax on worldwide income based on progressive rates of up to 35% ▶ Staying in Vietnam from 183 days or more; having a residential location in Vietnam (PR card/residence card) ▶ Non tax resident: Subject to a flat rate of 20% based on their Vietnam sourced income
Tax treaty network and claiming procedures	▶ Tax treaty networks with almost 80 countries, including Thailand ▶ Claiming procedures: Not automatically granted the exemption / reduction ▶ Taxpayers to self-assess whether they are eligible to the tax benefits under the relevant tax treaties ▶ Taxpayers to submit the DTA notification dossier to the local tax office within 3 years after the income arises ▶ No written confirmation / approval from the local tax officer but final decision will be made during the tax audit

Investment incentives
Corporate income tax incentives

Zone-based incentives	▸ High-tech park ▸ Economic zone ▸ Areas having specially difficult socio-economic conditions	▸ 10% CIT rate for 15 years ▸ CIT exemption for 4 years ▸ 50% CIT reduction for subsequent 9 years
	▸ Areas having difficult socio-economic conditions	▸ 17% CIT rate for 10 years ▸ CIT exemption for 2 years ▸ 50% CIT reduction for subsequent 4 years
	▸ Industrial parks located in disadvantaged areas	▸ CIT exemption for 2 years ▸ 50% CIT reduction for subsequent 4 years
Sector-based incentives	▸ High-tech, software development, infrastructure development, power energy	▸ 10% CIT rate for 15 years ▸ CIT exemption for 4 years ▸ 50% CIT reduction for subsequent 9 years
	▸ Education, health, environment, culture and sports investment projects	▸ 10% CIT rate for the whole project
Big investment in manufacturing incentives	▸ Manufacturing of products not subject to special sales tax ▸ Investment capital of VND 6,000 billion min ▸ Number of employees up to 3,000 OR annual revenue of VND 10,000 billion	▸ 10% CIT rate for 15 years ▸ CIT exemption for 4 years ▸ 50% CIT reduction for subsequent 9 years
	▸ Investment capital of VND 12,000 billion min ▸ Using technology assessed by the laws	▸ 10% CIT rate for another 15 years (subject to conditions on revenue and number of employees)
Support industries incentives	▸ Manufacturing products to support high technology sector ▸ Manufacturing products to support the garment, textile, footwear, IT, automobile assembly, mechanical sectors not produced domestically; OR meet EU/equivalent standard if produced domestically	▸ 10% CIT rate for 15 years ▸ CIT exemption for 4 years ▸ 50% CIT reduction for subsequent 9 years

Investment incentives (Cont'd)
Other tax incentives

VAT	▸ No VAT ▸ Goods imported for processing and manufacturing of exports ▸ 0% VAT ▸ Exported processing services and exported goods (including on-spot export) ▸ VAT refund: ▸ Input VAT incurred during the construction period (revenue not exceeding VND 300 million) ▸ Input VAT of imported goods for re-export or export to non-tariff zones exceeding VND 300 million ▸ Input VAT of exported goods and services for entities having both domestic and export sales exceeding VND 300 million
Import duty	▸ Preferential import duty rate under ATIGA for importation from Thailand to Vietnam with valid c/o ▸ Import duty exemption for goods imported for processing/manufacturing of exports ▸ Import duty exemption for imported machinery and equipment to form fixed assets and imported materials (cannot be produced in Vietnam) if the project is located in the incentive areas or operates in incentive sectors ▸ 5-year import duty exemption for imported materials (cannot be produced in Vietnam) if the project is located in areas with specially difficult socio-economic conditions or operates in special incentive sectors
Land rental	▸ Rental fee exemption: ▸ Land and water surface rental fee exemption for a maximum of 3 years during the construction period ▸ Land and water surface rental fee exemption depending on the business sector and geographical location ▸ Higher incentives with longer period of exemption for projects also located in the economic zones and hi-tech parts

Investment incentives (Cont'd)

Export Processing Enterprise (EPE) incentives

Qualifications	▶ EPE must be located in an Export Processing Zone (EPZ) or is specialized in manufacturing exported products. ▶ EPE must be located in EPZ or in an Industrial Zone but separated with outside territory by a fence having entry and exit gate enabling inspection by customs authority and other relevant authorities. ▶ EPE can sell its goods to local market as prescribed by laws on investment and commerce. No official guidance/regulation on the portion/ratio of local sales to be made by an EPE (some EPEs having local sale of 10% are acceptable).

Incentives

Types of tax	EPE	Non-EPE
Import duty	▶ No	▶ Yes unless goods used for manufacturing of exported goods
Export duty	▶ No	▶ Yes for certain products
Duty refund	▶ Not applicable	▶ Applicable for some cases
Input VAT	▶ Imported goods: No ▶ Locally purchased goods and services: 0% except certain cases where the goods and services are consumed outside of EPZ	▶ Imported goods for manufacturing of exported goods: No ▶ Other locally purchased/imported goods and services: 5%, 10%
Output VAT	▶ No	▶ Exported sales: 0% ▶ Local sales: 10%
VAT refund	▶ Not applicable	▶ Available based on ratio of export sales/total sales

Recent updates and hot topics

Topics	Descriptions
Base Erosion and Profit Shifting (BEPS) updates May 2017	▶ BEPS Action 13: Introduction of three-tiered TP documentation and TP disclosure forms **Three-tiered TP documentation** ▶ Master file: Group business information ▶ Local file: Local TP documentation ▶ Country-by-Country Report (CbCR): Transactional profitability results (e.g., key financial and tax indicators of the group in each country) ▶ Preparation and submission: Must be prepared before the submission date of the tax return and submitted within 15 working days upon request during the tax audit **TP disclosure forms** ▶ Form 01 - Information on related parties and related party transactions ▶ Form 02 - List of required information and documents in the Local File ▶ Form 03 - List of required information and documents in the Global Master File ▶ Form 04 – Country-by-Country Report ▶ Submission: Must be submitted together with the final tax return ▶ BEPS Action 4: A maximum total deductible interest expenses paid to related parties is capped at 20% of EBITDA. ▶ A substance over form for the deductibility of related-party services expenses was introduced by stipulating criteria to qualify the inter-group service expenses as tax deductible expenses. ▶ Services provided by the related companies must be directly beneficial to the business operation. ▶ Services fee paid to related companies must be similar to those paid by independent companies. ▶ Fee paid must be on an arms' length basis and the allocation keys must be used consistently within the group. ▶ Proper documents must be in place.

Recent updates and hot topics (Cont'd)

Topics	Descriptions
VAT refund position February 2018	▶ Input VAT exceeding VND 300 million for the goods imported for re-export can be refundable (this was previously disallowed).
Personal income tax impact July 2018	▶ Abolishment of 50% personal income tax reduction for individuals working in economic zones.
Tax reform proposal January 2019	▶ A transfer of shares in a Vietnamese company by nonresidents is proposed to be subject to a 1% corporate income tax on the sale proceeds, replacing the current 20% tax on net gain. This may also apply to an indirect share transfer. ▶ Corporate income tax rates for micro, small, and medium-sized enterprises will be reduced to 15% or 17%. ▶ The standard VAT rate will be increased from 10% to 11% by 2019 and to 12% by 2020. ▶ The 50% personal income tax reduction will be granted to high-tech labor force who work in specific fields only, e.g., IT, high-tech agriculture and agricultural processing projects, projects of production of high-tech products. ▶ Tax incentives: Only available for encouraged sectors, e.g., high technology industries and high value-added manufacturing

Your speaker

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Background and experiences

- Pathira has over 15 years of experience in assisting multinational clients in a wide variety of industries on various tax assignments with particular emphasis on their inbound and outbound investments.
- Her practice in assisting the foreign investors for their inbound investment to Thailand concentrates on the tax and regulatory issues on cross-border transactions particularly in relation to advising on structuring of operations in a tax efficient manner, tax and non-tax incentives advisory, planning and design for their group restructuring and reorganization covering the tax-free reorganization, cash repatriation planning, and exit strategies.
- Pathira assists Thai-based clients in planning, advisory, design and implementation for their outbound investment, including tax-efficient structure in the areas of identifying appropriate holding structures and locations, tax incentives, cash repatriation planning, group treasury center planning, and exit strategies.
- Pathira also has experiences in assisting the clients for their investment in Myanmar including applying for tax incentives, setting up a legal entity, advising on tax efficient structure and other relevant tax and regulatory matters for doing business in Myanmar.
- She has spoken at EY's tax conferences and seminars in Thailand and ASEAN countries. She is also a speaker at events organized by Thailand Board of Investment (BOI).

Qualifications

- Master of Laws in Taxation, University of Denver, USA
- Bachelor of Laws, Thammasat University, Thailand

"Doing Business in CLMV+I" 2018 version

With a local market saturation and intense competition amongst domestic players, a business expansion to overseas is increasingly gaining attention from investors. An effective tax risk management has posted crucial challenges to many corporations investing in foreign countries. Changes in foreign tax law will inevitably affect existing and future cross-border transactions. Taxpayers will need to keep abreast of global tax developments to assess the cash tax impact on their operations on a timely basis.

As a starting point, to be well prepared for your outbound investment in CLMV+I, read our Doing Business booklet series.

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