INFORMATION FOR INVESTORS

"*Establishment of a foreign company in Vietnam*"

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01 INVESTORS PERFORM DIRECT INVESTMENTS IN VIETNAM

Currently, in Vietnam, there are two forms of investment: direct investment and indirect investment. Direct investment is understood as a form in which investors invest capital and directly hold the right to manage, control, and use their capital contribution in business investment activities; specifically, this is to establish a foreign enterprise in Vietnam.

Depending on the business sectors and investment needs, foreign-invested enterprises will have a capital structure: Foreign investors can hold a part of the capital or 100% of the capital in a company established in Vietnam.

TYPES OF ENTERPRISES IN VIETNAM SUITABLE FOR INVESTORS

For foreign investors, the Limited Liability Company and Joint Stock Company are models compatible with their needs. Investors rely on factors such as business sectors, the number of investors, the need to tighten the change of investors in the company, as well as future plans related to the financial sector,... to choose the right operating model.

Investors participating in the establishment of an enterprise can be foreign individuals or organizations. For some special business sectors, the participation of corporate investors will have more advantages in the enterprise establishment process in Vietnam related to the proof of financial capacity, and the explanation of the investor's experience.

02

TYPES OF ENTERPRISES IN VIETNAM SUITABLE FOR INVESTORS

Investors based on operational needs and business plans, choose the appropriate type of operation. Currently, the Enterprises Law divides enterprise models as follows:

- Private enterprise;
- Partnerships;
- Single-member limited liability company (only 01 member);
- Limited liability company with two or more members (with at least 02 members);
- Joint stock company (minimum of 03 shareholders).

CHOOSING THE LOCATION FOR THE OPERATION HEADQUARTERS OF ENTERPRISES, AND THE LOCATION OF THE INVESTMENT PROJECT

Legal dossiers on the headquarters and operating location of an investment project are mandatory dossiers that an investor must submit to the investment registration agency during the process of establishing an enterprise in Vietnam. Therefore, in order to choose a suitable location and ensure benefits, investors should note:

- Choosing an allowed location
- Choosing a suitable location for business sectors
- Choosing locations that comply with environmental legal regulations

1.Choosing an allowed location

In this case, we want to refer to the location where the Investor intends to rent flats and apartment buildings. Investors need to base their decisions on the purpose of use at the place they intend to rent, to determine whether the apartment that the Investor intends to rent as the headquarters has recorded the use function as "residential" or a multi-purpose apartment – a form of the apartment that has both residential and office functions.

Renting an apartment with the purpose of using it as an office would be against legal regulations, and it is obvious that the business registration authority would reject the establishment dossier.

2. Chọn địa điểm phù hợp với ngành nghề hoạt động kinh doanh:

Accordingly, some areas do not allow certain business activities or limit the number of enterprises operating in the same business sector in a geographical area, which is common in large cities such as Ho Chi Minh, Hanoi, Da Nang ...

In this case, the business registration agency will usually consult with the local management agency.

3. Choosing locations that comply with environmental legal regulations

Those are the business sectors whose operations have a strong impact on the surrounding environment. Accordingly, to ensure the surrounding environment, some areas will not allow certain business sectors, or allow them but there will be limits on labor capacity. The factors of the amount of water, electricity expected to be consumed, the amount of waste expected to be discharged into the environment, and hazardous or non-hazardous waste will be specifically assessed before allowing the enterprise to operate.

04 CHARTER CAPITAL AND INVESTMENT CAPITAL

After establishing an enterprise in Vietnam, investors will operate on the basis of receiving the Investment Registration Certificate ("IRC") and the Enterprise Registration Certificate ("ERC"), corresponding to the information about the Charter Capital recorded on the ERC and Investment capital recorded on the IRC, in which:

CHARTER CAPITAL	INVESTMENT CAPITAL
is understood as the total value of assets contributed or committed by the company's members and owners when establishing a limited liability company or partnership; it is also the total par value of shares sold or registered for purchase upon the establishment of a joint stock company.	is money and other assets as prescribed by civil law and international treaties to which the Socialist Republic of Vietnam is a signatory to perform business investment operations.

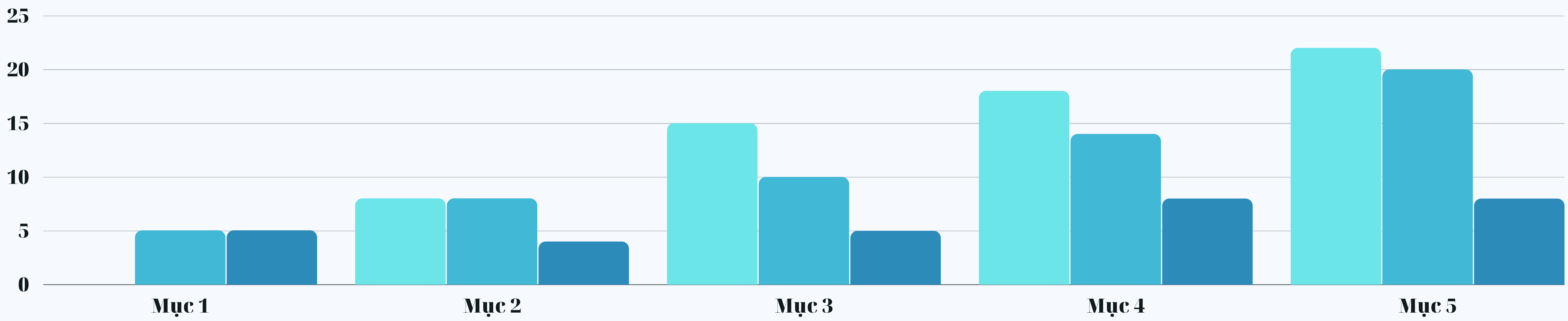
Note:

- The charter capital of an economic organization established by a foreign investor to execute an investment project is not necessarily equal to the investment capital of the investment project.

- Economic organizations established by foreign investors shall contribute capital and mobilize other capital sources for the implementation of investment projects according to the schedule specified in the Investment Registration Certificate.

- However, in the case of a new establishment, the Charter Capital is equal to the Investment Capital.

Limit on investment capital in Vietnam



Except for some business sectors where Vietnam has legal capital requirements such as banking, education, labor subleasing, insurance, etc., other popular business sectors such as e-commerce, restaurants, etc. hotels, management consulting, and software .... there is no requirement on the minimum investment capital that the investor guarantees when making an investment in Vietnam.

However, the level of investment capital indirectly affects the capacity of the Investor and the feasibility of the project when the licensing agencies consider the dossier for establishment registration, the dossier for a business license (one of the sub-licenses in Vietnam for enterprises conducting retail, e-commerce activities...)

05 LEGAL REPRESENTATIVE OF ENTERPRISES IN VIETNAM

The legal representative of an enterprise is an individual representing the enterprise to exercise rights and obligations arising from transactions of the enterprise, representing the enterprise in the capacity of a requester for settlement of civil matters, plaintiffs, defendants, persons with related interests, and obligations before arbitration, courts, and other rights and obligations as prescribed by law.

Limited liability companies and joint-stock companies may have one or more legal representatives. All legal representatives must be jointly liable for damage caused to the enterprise in accordance with the regulations of civil law and other relevant laws.

The enterprise shall ensure that there is always at least one legal representative residing in Vietnam. When there is only one legal representative remaining in Vietnam, this person, upon exiting Vietnam, shall authorize in writing another individual residing in Vietnam to exercise the rights and perform the obligations of the legal representative.

STEPS TO ESTABLISH A FOREIGN BUSINESS IN VIETNAM

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STEP 1:

Investment project registration: Dossiers will be submitted to the investment registration office of the Department of Planning and Investment. Normally, the processing time will be about 15 working days, however, if the business sectors are expected to operate in the event that Vietnam has not committed, the investment registration agency will need to consult with the specialized management agency.

STEP 2:

After completing the investment registration and having been granted the Investment Registration Certificate, the Investor submits the dossier to apply for the Enterprise Registration Certificate.

The processing time will be 03 working days and the result received by the Investor will be the Enterprise Registration Certificate. This document records the legal status of the organization managing the investment project according to the issued Investment Registration Certificate. Immediately after receiving the Enterprise Registration Certificate, the Investor performs the procedures to make the enterprise seal.

07

ACTIVITIES THAT FOREIGN ENTERPRISES ARE REQUIRED TO PERFORM AFTER THE ESTABLISHMENT

1. Engraved company round seal

2. Make a company sign

3. Buy a digital signature

4. Open a bank account

5. Submit the initial tax declaration

1. Engraved company round seal

- According to Article 43 of the Enterprises Law 2020, an enterprise has the right to decide on the number, form, and content of its seal.
- However, the content of the seal must show two important pieces of information: the name of the business, and the tax code of the enterprise.

2. Làm bảng hiệu công ty

- However, the content of the seal must show two important pieces of information: the name of the business, and the tax code of the enterprise.

3. Mua chữ ký số

- An electronic digital signature is a must-have tool for enterprises and has the same legal value as the seal of a legal entity.
- With a digital signature, enterprises can easily declare and pay taxes electronically, declare electronic customs, declare electronic social insurance, transact on the National Single Window, and bid electronically … without having to transport, it is very convenient indeed.

4. Open a bank account

- For foreign enterprises in Vietnam, enterprises will need 02 types of accounts, including current accounts for revenue and expenditure purposes related to business operations, and direct investment capital accounts.
- In which, the direct investment capital account will be opened in foreign currency at 01 authorized bank in Vietnam, and corresponding to the foreign currency in which the capital contribution is made, only 01 (one) direct investment capital account in such foreign currency can be opened at 01 (one) authorized bank. In case the Investor wishes to change the authorized bank where the direct investment capital account was previously opened, the Investor needs to open a direct investment capital account at another authorized bank. Next, Investors transfer the entire balance on the previously opened direct investment capital account to the new direct investment capital account and then close the previously opened direct investment capital account.
- The capital contribution of foreign investors and Vietnamese investors in foreign enterprises shall be transferred directly to the direct investment capital account.

5. Submit the initial tax declaration

- The initial tax declaration is very important for an enterprise after it is established.
- According to Clause 2, Article 33 of the Law on Tax Administration 2019, enterprises shall perform initial tax declaration procedures within 10 working days from the date of issuance of the Enterprise Registration Certificate.

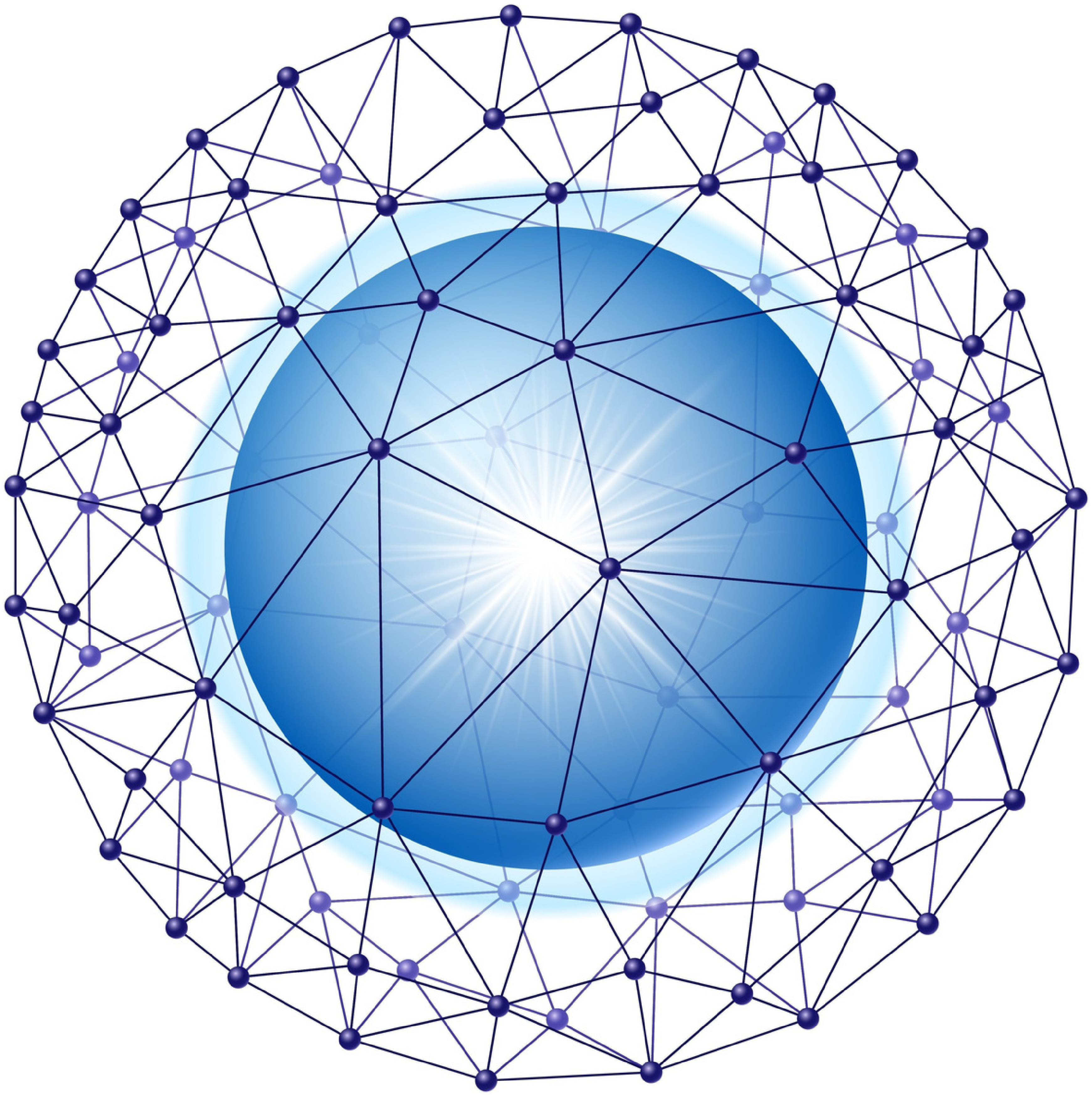
IN WHICH CASE SHALL A FOREIGN ENTERPRISE APPLY FOR A SEPARATE LICENSE TO OPERATE AFTER IT IS ESTABLISHED?

- For a number of business sectors such as travel services, hotels, restaurants, education, etc., after an enterprise has been established in Vietnam, in order to officially go into operation, the enterprise needs to meet a number of special conditions related to regulatory approvals.

- Depending on the business sector, foreign enterprises in Vietnam will need to perform procedures to be granted a number of sub-licenses, such as a Food Safety Certificate, Fire Safety Certificate, Retail Trading license, Domestic/International travel business license, and Language/Information technology Center Operation License.

TAXES APPLICABLE IN VIETNAM

1. Licensing fee
2. Value Added Tax (VAT)
3. Corporate income tax
4. Personal income tax
5. Import and export tax



1. Licensing fee

The licensing fee will be submitted once a year, and calculated according to the charter capital or investment capital of the enterprise, specifically:

- Organizations with charter capital or investment capital over 10 billion VND: 3,000,000 VND/year;
- Organizations with charter capital or investment capital of 10 billion VND or less: 2,000,000 VND/year;
- Branches, representative offices, business locations, non-business units, and other economic organizations: 1,000,000 VND/year.

The level of licensing fee collection for organizations specified at Points A and B of this Clause is based on the charter capital stated in the enterprise registration certificate; if there is no charter capital, it shall be based on the investment capital stated in the investment registration certificate.

2. Value Added Tax (VAT)

VAT rates applied to foreign enterprises are not different from enterprises with 100% capital in Vietnam, according to which VAT rates will be divided into groups including Non-taxable; tax rate of 5%; and a tax rate of 10%. In which, for the 10% tax rate group, at some point in time, to support enterprises, the Government introduced policies to reduce VAT from 10% to 8%.

3.Personal income tax

Personal income tax is a tax on income that enterprises pay to employees, dividend payments, and individuals who provide services to enterprises. Enterprises are responsible for declaring and withholding tax payable before paying salaries and wages to employees, shareholders, members, collaborators, other related individuals, etc. Whether an individual is a resident or a non-resident individual, the tax rates, declaration, and finalization will be different.

4. Thuế thu nhập doanh nghiệp

The current corporate income tax rate is 20% calculated on the taxable income of the enterprise, except for some cases of enjoying tax incentives, such as software services, where the tax rate will be lower or exempt for a certain period of time. The amount of corporate income tax that an enterprise shall pay will be based on taxable income, which will be determined according to the following formula:

Taxable income = Revenue - Deducting expenses + Other incomes

Income from the production and business operations of goods and services equals revenue from the production and trading of goods and services minus expenses deductible from the production and business of such goods and services. If an enterprise has many production and business operations that apply different tax rates, the enterprise shall calculate the income of each operation separately multiplied by the corresponding tax rate.

5. Import and export tax

If a foreign enterprise is involved in the import and export of goods into and out of Vietnam, the enterprise shall bear an additional import and export tax. Vietnam has regulations on import and export tax rates, but this tariff is usually adjusted every year.

In which the import tax rate will be calculated by multiplying the dutiable value of each imported item by the corresponding import tax rate. The import tax rate will be determined based on each type of goods and the origin, whereby there will be three types of tax rates: the normal tax rate, the preferential tax rate, and the special preferential tax rate.

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