# POCKET TAX BOOK 2018
# CORPORATE INCOME TAX

Audit / Tax / Advisory

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## Corporate income tax

Corporate income tax (CIT) is a direct tax on the income of an organization, a legal entity.

- Corporate income tax is imposed on the enterprise's income after deducting expenses to generate income in the tax period. Therefore, the enterprise only has to pay corporate income tax when it has profit.
- Corporate income tax shall be adjusted for enterprises established under the provisions of Vietnamese law and foreign enterprises having taxable incomes generated in Vietnam.

The CIT incentive policy aims to attract investment in disadvantaged areas, encourage the development of specific sectors, encourage regional and regional economic restructuring, and create a competitive incentive mechanism for attracting foreign investment.

### Legal Documents

- Law No. 14/2008/QH12 on Corporate income tax.
- Law No. 32/2013/QH13 on amendments to the Law on Corporate income tax.
- Law No. 71/2014/QH13 on amendments to tax Laws.
- Decree No. 218/2013/ND-CP on elaboration and guidance implementation of Law on Corporate income tax.
- Decree No. 91/2014/ND-CP on amendments to some articles of Decrees on taxations.
- Decree No. 12/2015/ND-CP guidance on implementation of Law on amendments to tax Laws and amendments to some articles of Decrees on taxations.
- Circular No. 78/2014/TT-BTC guidance on implementation of Decree No. 218/2013/ND-CP on elaboration and guidance implementation of Law on Corporate income tax.
- Circular No. 151/2014/TT-BTC guidance on implementation of Decree No. 91/2014/ND-CP on amendments to some articles of Decrees on taxations.
- Circular No. 96/2015/TT-BTC guidance for corporate income tax in Decree No. 12/2015/ND-CP guidance on implementation of Law on amendments to tax Laws and amendments to some articles of Decrees on taxations; and amendments to some articles of Circular No. 78/2014/TT-BTC, Circular 119/2014/TT-BTC, and Circular 151/2014/TT-BTC.
- Other relevant amended and supplemented by- law documents.

## 1. Taxpayer

CIT payers are production and business organizations which have taxable incomes according to regulations.

- Enterprises established under the provisions of Vietnamese law shall pay tax on taxable incomes generated inside and outside Vietnam.
- Foreign enterprises having Vietnamese permanent establishments shall pay tax on taxable income generated outside Vietnam in connection with the operation of such permanent establishment and taxable income arising in Vietnam. (detailed guidance for this subject is found in item VI. Foreign Contractor Tax)
- Foreign enterprises without permanent establishments in Vietnam shall pay tax on taxable incomes generated in Vietnam. *(detailed guidance for this subject is found in item VI. Foreign Contractor Tax).*

***The definition of "permanent establish of foreign enterprises"***

A production or business establishment through which a foreign enterprise carries out part or all of its production and business activities in Vietnam, including:

- Branches, executive offices, factories, workshops, transport means, oil fields, gas fields, mines or other natural resource exploitation sites in Vietnam.
- Location of construction, construction, installation, assembly.
- Establishments providing services, including counseling through employees or other organizations or individuals.
- Agent for foreign enterprises.
- Representatives in Vietnam who are representatives authorized to sign contracts on behalf of foreign enterprises or representatives not authorized to sign contracts in the name of foreign enterprises, but regularly carry out delivery of goods or provide services in Vietnam.

***The definition of "CIT taxable income"***

CIT taxable incomes include:

- Income from production and trading of goods and services;
- Other income includes income from capital transfer, transfer of capital contribution; income from transfer of real estate, transfer of investment projects, transfer of rights to participate in investment projects, transfer of rights to explore, exploit and process minerals; income from property use rights, property ownership, including income from intellectual property rights in accordance with the law; Income from transfer, lease or liquidation of assets, including valuable papers; income from deposits, loans, foreign currencies; receivables from bad debts have been written off; receipts from payable debts cannot be identified; past incomes from previous business activities and other incomes, including incomes from production and business activities outside Vietnam.

## 2. Basis of CIT calculation

### 2.1. Formula for CIT determination

| CIT | = | Assessable income | x | CIT tax rate |
|---|---|---|---|---|

Taxable income and tax rate for each type of assessable income:

| **Taxable income** | **Assessable income determination** | **Tax rate** |
|---|---|---|
| Taxable income in tax period | Assessable income = taxable income - (tax-exempt income + losses carried forward from previous years).<br><br>In which:<br>Taxable income = (revenue – deductible expenses) + other incomes<br><br>*Tax-exempt incomes and losses carried forward from previous years are details in Section III, point 2.2 and 2.4 respectively.* | **20%:** Common CIT rate<br>**32% to 50%:** CIT rate for oil and gas prospection, exploration and exploitation in Vietnam.<br>**40% or 50%:** CIT rate for prospecting, exploring and exploiting rare and precious resources (including platinum, gold, silver, tin, wolfram, antimony, precious stones, rare earths except for oil and gas). |
| Income from capital transfer | Transfer price - purchase price of the transferred capital - transfer cost | 20% |
| Income from securities transfer | Stock price - purchase price of transferred securities - transfer cost | 20% |
| Income from transfer of real estate | Taxable income - losses from property carried forward from previous years (if any)<br><br>In which:<br>Taxable income = Revenue from real estate transfer - Cost of real estate transferred - Transfer costs. | 20%. |

An enterprise that has different production and trading activities subject to different tax rates shall calculate the income from each activity separately and multiply it by the corresponding tax rate.

Income from the transfer of real estate or investment projects; income from the transfer of the right to participate in investment projects or the right to explore, exploit and process minerals as prescribed by law shall be separately accounted and are ineligible for enterprise income tax incentives.

## 2.2. Tax-exempt incomes

- Income from agriculture, forestry, fishery and salt production in accordance with the law.
- Incomes from the supply of technical services directly for agriculture.
- For incomes from carrying out the scientific research and technological development contracts in accordance with law on scientific and technology.
- Income from goods production and trading or service provision activities of enterprises employing disabled, drug-detoxified and HIV-infected laborers, who account for at least 30% of the average number of laborers of these enterprises in a year.
- Income from vocational training dedicated to the ethnic minorities, the disabled, underprivileged children, the objects of social evils, people undergoing detoxification, detoxified people, HIV/AIDS sufferers.
- Incomes divided from capital contribution, share purchase, joint venture or economic association with domestic enterprises, after contributed capital recipients, share issuers or joint venture or association parties have paid enterprise income tax under the Law on Enterprise Income Tax.
- The grants received are used for educational activities, scientific research, culture, art, charity, humanity and other social activities in Vietnam.
- Incomes from the first-time transfer of certified emission reductions (CERs) of enterprises granted with emission reduction certificates.
- Incomes from the performance of the State-assigned tasks of the Vietnam Development Bank in credit for investment development, for export,; incomes from credit activities for the poor and other policy beneficiaries by the Social Policy Bank; incomes of the single-member limited liability company managing assets of Vietnamese credit institutions; incomes from revenue-earning activities in the performance of the State-assigned tasks of state-owned financial funds.
- The undivided income of the establishments socializing the education, training, health and other socialized fields (including Offices of judicial inspection) is left for investment and development of those establishment as prescribed by specialized law on education – training, health and other socialized fields; the income forming the undivided assets of cooperatives which are established and operating under the provisions of the Law on cooperatives.
- Incomes from technology transfer in the prioritized fields of transfer of technology to organizations and individuals in geographical areas with particularly difficult socio-economic conditions.
- The income of the bailiff office (except for the income from activities other than the return of the bailiff) during the pilot period in accordance with the provisions of law on enforcement of civil judgments.

Bailiff l office and bailiff activities shall comply with the provisions of relevant legal documents on this issue.

## 2.3. Deductible expense and non-deductible expense

**Expenses are deductible when fully satisfy the following conditions:**

- Actual expenses arising in relation to production and business activities of enterprises.
- Expenses with adequate lawful invoices and documents as required by law. For expenses for purchase of goods or services with invoices valued at VND 20 million or more (VAT-inclusive prices) each, there must be non-cash payment documents except from cases where no non-cash payment documents are required as prescribed.
- Not included in the list of expenses not deducted under regulations.

**Non-deductible expense –** See Appendix 4- Non-deductible expenses when determining CIT taxable income (Pocket Tax Book 2018 – Tax Administration) for details, the followings are some of highlights:

- Expenses that do not fully meet the conditions on deductible expenses when determining taxable income.
- Depreciation of fixed assets which is not in accordance with current stipulations, the excessive depreciation in compare with current stipulations.
- Employee remuneration expenses which are not actually paid or without valid payment vouchers; are not stated in a labor contract, collective labor agreement or the company financial policies.
- Expense in excess of VND3 million/month/person for: Deduction for voluntary retirement fund, voluntary retirement insurance, life insurance for laborers; The amount exceeding the level prescribed by the law on social insurance and health insurance to deduct social security funds (compulsory social insurance, supplementary pension insurance), insurance fund for health and unemployment insurance fund for employees.
- The excessive cost of business management expenses allocated by the foreign enterprises to the permanent establishment in Vietnam as calculated by the following formula:

<table>
<tr><td rowspan="2">Business management expenses allocated by foreign companies to the permanent establishment in Vietnam in the tax period</td><td rowspan="2">=</td><td>Taxable revenue of the permanent establishment in Vietnam in the tax period</td><td rowspan="2">x</td><td rowspan="2">Total business management expenses of foreign companies in the tax period</td></tr>
<tr><td>Total revenue of company abroad including the revenue of permanent establishments in other country in the tax period</td></tr>
</table>

- Expenses directly related to the issuance of shares (excluding shares being payable debts) and of dividends (excluding dividends of shares being payable debts), and purchase and sale of treasury shares, and other expenses directly related to the increase and decrease of equity of enterprises.
- Fine payments for administrative violations.
- Input VAT which has been credited or refunded, PIT, CIT.

- Provision fund to add for the wage fund of the subsequent year if not meeting 1 in 2 following conditions:
  - The annual level of provision fund must not exceed 17% of the implemented wage fund.
  - Spending all provision in 6 months from the last day of fiscal year.
- Interest expenses shall not be included in deductible expenses in the following cases:
  - The interests of working capital loans of entities other than credit institutions or economic organizations shall exceed 1.5 times the basic interest rate announced by the State Bank of Vietnam at the time of borrowing.
  - Payments of interest from loans corresponding to the missing charter capital, under the capital contribution schedule stated in the enterprise's charter.
  - Interest expenses that do not support production and business activities or have insufficient invoices / vouchers.
  - Total interest expenses in the period exceeded 20% EBITDA (regulated in Decree 20 & Circular 41).
  - In cases where the EBITDA is negative, all interest expenses in the tax period shall not be deducted when determining taxable income.

## 2.4. Carrying forward of losses

Enterprises that have suffered losses after making tax finalization may carry forward **continuously the whole loss** to subsequent years' taxable incomes (taxable incomes exclusive of tax-exempt incomes). The maximum duration for loss carry-forward is 5 consecutive years, counting from the year following the year the losses arise.

- The loss from the transfer of real estate, the transfer of investment projects, the transfer of the right to participate in investment projects shall be offset against profits from production and business activities.
- Losses from production and business activities entitled to CIT incentives shall be offset against profits from production and business activities not eligible for CIT incentives and vice versa.

## 3. CIT incentives

Objects eligible for CIT incentives:

- New investment projects in geographical areas where investment is encouraged, operating in the field of investment promotion or large-scale projects.
- Expansion projects should meet certain criteria.

Companies eligible for CIT incentives may enjoy a preferential tax rate (10%, 15%, 17%), tax reduction or tax exemption within the time required by law depending on the conditions of the project.

| Objects and conditions for enjoying CIT incentives | Preferential tax rate | Exemption tax | Tax reduction |
|---|---|---|---|
| *The income of enterprises from the implementation of new investment projects in areas where investment is encouraged:* economic zones, hi-tech zones and areas with particularly difficult socio-economic conditions. | 10% for 15 years | Maximum not more than 4 years | A 50% reduction of the payable tax amount shall not exceed 9 subsequent years |
| *Incomes of enterprises from the implementation of new investment projects in the fields of investment promotion, consist of:*<br>Scientific research and technological development; application of high technologies on the list of high technologies prioritized for development investment in accordance with the Law on High Technologies; nursery of high technologies and hi-tech enterprises; venture investment in development of high technologies on the list of high technologies prioritized for development in accordance with the Law on High Technologies; construction investment and commercial operation of establishments nursing high technologies and hi-tech enterprises; investment in development water plants, power plants, water supply and drainage systems; bridges, roads, railways; airports, seaports, river ports; air fields, stations and other particularly important infrastructure facilities decided by the Prime Minister; production of software products; manufacture of composite materials, light building materials, rare and precious materials; generation of renewable energies, clean energy and energy from the waste disposal; development of biotechnology. | 10% for 15 years | Maximum not more than 4 years | A 50% reduction of the payable tax amount shall not exceed 9 subsequent years |
| *Incomes of enterprises from the implementation of new investment projects in the field of environmental protection,* covering manufacture of equipment for treating environmental pollution, equipment for environmental observation and analysis; environmental pollution treatment and protection; collection and treatment of wastewater, exhaust and solid wastes; recycling and reuse of wastes; | 10% for 15 years | Maximum not more than 4 years | A 50% reduction of the payable tax amount shall not exceed 9 subsequent years |
| *Hi-tech enterprises and agricultural enterprises applying high technologies defined in the Law on High Technologies* | | | |
| *Incomes of enterprises from the implementation of new investment projects in the fields of production* (except projects producing goods items liable to special consumption tax and mineral mining projects): | 10% for 15 years | Maximum not more than 4 years | A 50% reduction of the payable tax amount shall not exceed 9 subsequent years |

| | | | |
|---|---|---|---|
| • A project has an initial registered investment capital of at least VND 6 (six) trillion, fully disburses the capital within 3 years after being granted an investment license and meet 1 in 2 the following conditions:<br>○ The total revenue is at least VND 10,000 billion per year after not more than 3 years from the first year in which revenues are generated by the project.<br>○ The enterprise's annual average number of employees has over 3,000 employees after not more than 3 years from the first year in which revenues are generated by the project<br>• Scale of investment capital of at least VND 12,000 billion, using technology evaluated according to regulations, disbursing total investment capital for registration up to 5 years from the date of investment license according to the law on investment. | | | |
| *Incomes of enterprises from the implementation of new investment projects engaged in manufacturing industrial products supporting prioritized development if they meet one of the following conditions:*<br>• Supporting industrial products for high technologies according to the Law on High Technologies;<br>• The products support the garment, textile, footwear, electronic, IT, , automobile assembly, or mechanical sectors and were not produced domestically as at 1 January 2015, or if produced domestically but they had to meet the quality standards of the EU or equivalent. | 10% for 15 years | Maximum not more than 4 years | A 50% reduction of the payable tax amount shall not exceed 9 subsequent years |
| *Income of enterprises from investment in socialization fields:* Education and training, vocational training, healthcare, sports, environment, judicial inspection. | 10% | Maximum not more than 4 years | • Projects implemented in areas with difficult or extremely difficult socio-economic conditions: a 50% reduction of the payable tax amounts for the subsequent 9 years;<br>• Projects implemented in areas not included in the list of areas with difficult or extremely difficult socio-economic conditions: a 50% reduction of |

<table>
<tr><td></td><td></td><td></td><td>the payable tax amounts for 5 subsequent years.</td></tr>
<tr><td>Incomes of publishing houses from publication activities in accordance with the Law on Publication.</td><td>10%</td><td>Not applicable</td><td>Not applicable</td></tr>
<tr><td>Incomes of press agencies from printing newspapers in accordance with the Law on Publication</td><td>10%</td><td>Not applicable</td><td>Not applicable</td></tr>
<tr><td>Incomes of enterprises from the implementation of projects on investment and trading in social houses for sale or lease to or finance lease by the subjects in accordance with the Housing Law.</td><td>10%</td><td>Not applicable</td><td>Not applicable</td></tr>
<tr><td>Income from some activities in agriculture-forestry-fishery sector in socio-economic difficulty areas.</td><td>10%</td><td>Not applicable</td><td>Not applicable</td></tr>
<tr><td>The incomes of cooperatives operating in the fields of agriculture, forestry, fishery and salt production outside socio-economic difficulty and socio-economic difficulty areas.</td><td>10%</td><td>Not applicable</td><td>Not applicable</td></tr>
<tr><td>Incomes of enterprises from farming, breeding, and agro-processing and fish processing in areas other than socio-economic difficulty and socio-economic difficulty areas</td><td>15%</td><td>Not applicable</td><td>Not applicable</td></tr>
<tr><td>Income of enterprise from performing new investment projects in the areas with difficult socio-economic conditions.</td><td rowspan="2">17% for 10 years</td><td rowspan="3">Maximum not more than 2 years</td><td rowspan="3">A 50% reduction of the payable tax amount shall not exceed 4 subsequent years</td></tr>
<tr><td>Income of enterprise from performing new investment project in the field of investment incentives: production of high-quality steel, energy saving products, machinery and equipment for agriculture, forestry, fishery and salt industry; production of irrigation and drainage equipment; production, refining of cattle, poultry and aquatic animal feed; development of traditional industries.</td></tr>
<tr><td>Income of enterprises from implementing new investment projects in industrial zones, except for industrial zones in geographical areas with favorable socio-economic conditions.</td><td>20%</td></tr>
</table>

The duration of applying the incentive tax may be extended if the project meets the criteria prescribed by law. However, the extension duration shall not exceed the period for which the preferences are granted for the first time.

**Some other notes:**

- Separate accounting of income from production and business activities is entitled to CIT incentives.
- At the same time, if the enterprise is entitled to more than one tax incentive for the same income, the enterprise is preferred to apply the most favorable tax rate.
- During the tax year, if the enterprise fails to satisfy one of the tax preference conditions, the tax year is not entitled to tax incentives.
- Incomes from real estate transfer, transfer of investment projects, transfer of rights to participate in investment projects, transfer of mineral exploration, mining or processing rights under the law are required to account separately for CIT declaration and payment, it is not eligible for CIT incentives.

The list of industries eligible for investment incentives is detailed in *Appendix I issued together with Decree No. 118/2015/ND-CP dated November 12, 2015 of the Government.*

The list of geographical areas eligible for investment incentives is specified in *Appendix II to the Government's Decree No. 118/2015/ND-CP of November 12, 2015.*

## 4. CIT declaration, finalization and payment

### CIT declaration and finalization

- Tax period and tax declaration

| Applicable case | Tax period | Declaring Form |
|---|---|---|
| Real estate transfer (for enterprises without real estate business function) | As each time arising | Form No. 02/TNDN |
| CIT from transfer of capital (for foreign organizations doing business in Vietnam or earning income in Vietnam (collectively referred to as foreign contractors), which do not operate under the Investment Law, the Enterprise Law) | As each time arising | Form No. 05/TNDN |
| For incomes from ordinary production and business activities of enterprises (not of the above types) | It is not required to submit quarterly declaration of provisional CIT but only finalized at the end of the fiscal year/ year of the dissolution.<br>However, businesses must temporarily pay CIT quarterly.<br>If the tax amount temporarily paid in the tax period is lower than the payable CIT amount of 20% or more, the enterprise shall have to pay money for late payment of a difference of 20% or more between the temporarily paid tax amount and the tax amount required to pay in according to the finalization after the last day of the deadline for tax payment of the fourth quarter of the enterprise to the date of actually paying the outstanding tax amount as compared to the finalization. | Form No. 03/TNDN |

- Place to submit CIT return:
  - At the tax authorities directly managing (Taxation Department or District Tax Department).
  - In cases where an enterprise has its production establishment that accounts dependently in a province or a city belonged directly to central government other than the locality where its head office is located, the tax declaration dossier shall be submitted in the locality where it is headquartered (involving parts arising in dependent establishment).

**CIT payment**

- Place to pay CIT:
    - In the location where the head office is located.
    - Where enterprises have production establishments that account dependently located in provinces or cities belonged directly to central government other than the localities where they are headquartered, tax amounts shall be paid at the places where they are headquartered and where the establishments are located. The amount of CIT payable at each location shall be allocated on the basis of the proportion of expenses incurred in the dependent establishment in relation to the total expenses of the enterprise.
- Based on the results of production and business, enterprises temporarily pay the quarterly CIT.
- Deadline for paying CIT (See Pocket Tax Book 2018 - Tax administration section for details):
    - Temporary quarterly payment of CIT: no later than the 30th of the following quarter.
    - In case of declaration of CIT on each occasion: Within 10 days from the date of arising of the obligation.
    - Payment of CIT finalization: Within 90 days from the end of the calendar year or fiscal year. Dossier for dissolution: 45 days from the date of dissolution decision.

## 5. Profit Remittance

Foreign investors are permitted to remit their profits annually at the end of the fiscal year or upon termination of the investment in Vietnam. Foreign investors are not permitted to remit profits if the investee company has accumulated losses after carrying forward losses.

Conditions for profit remittance:

- Foreign investors have fulfilled their financial obligations to the State of Vietnam in accordance with the law.
- Submitted audited financial statements and CIT finalization declarations to the direct tax administration authorities.

The foreign investor or the authorized investee company are required to notify the tax authorities of the plan to remit profits at least 7 working days prior to the scheduled remittance.

# About Crowe Vietnam


## Hanoi office

Room 1205, 12th Floor, IPH Office Tower, 241 Xuan Thuy Street,

Cau Giay District,

Hanoi

Tel: +84 24 7300 6386

Fax: +84 24 2220 8335

## Ho Chi Minh office

14th Floor, TNR Tower, 180-192 Nguyen Cong Tru Street,

District 1,

Ho Chi Minh City

Tel: +84 28 7300 6386

Fax: +84 28 3827 8517

www.crowe.vn
customercare@crowe.vn


Crowe Vietnam Co., Ltd ( “Crowe Vietnam”), founded in 2008 with offices in both Hanoi and Ho Chi Minh city, is one of the leading mid-tier auditing, accounting and advisory service firms in Vietnam. Crowe Vietnam currently offers Audit, Accounting, Tax, Outsourcing, Business Advisory and Training.

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