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A Guide to Exporting from Vietnam

Export Requirements in Vietnam P.04

Rules of Origin P.08

Export Duties Explained P.10

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Introduction

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Vietnam follows an export-led growth model, combining trade liberalization and investment incentives to spur export-oriented manufacturing. This has allowed Vietnam to accelerate growth, steadily, over the last decade, and become a leading low-cost sourcing destination.

External factors like US-China trade tensions, and the country's initial handling of the pandemic, both contributed to recent foreign direct investment-led spikes in growth trends. Vietnam's exports to the US rose by 50 percent year-on-year in the first four months of 2021, making the US the largest importer of Vietnamese goods. Another appealing factor is Vietnam's dense network of free trade agreements (FTAs), which makes it competitive to serve as an export hub. Key trade arrangements include the recently ratified European Union – Vietnam Free Trade Agreement (EVFTA), the UK-Vietnam Free Trade Agreement (UKVFTA), and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Foreign investors interested in export-oriented manufacturing and accessing global markets may consider a low-cost destination in Asia, such as Vietnam, which is suitably a part of or located near major supply chains. As such, knowledge of Vietnam's trade environment and regulations that detail export procedures will be necessary to tap into incentives and optimize operations.

In this issue of Vietnam Briefing, we detail export procedures in Vietnam, followed by rules of origin guidelines. We conclude with an introduction of duties, exemptions, and tax rates that traders need to be aware of.

This magazine is based on Dezan Shira & Associates' years of experience in supporting foreign enterprises in Vietnam. For more information and advice on how to plan a relocation to Vietnam please contact us at **vietnam@dezshira.com**.

Best regards,

Alberto Vettoretti

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This Issue's Topic

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Export Requirements in Vietnam

By Dezan Shira & Associates

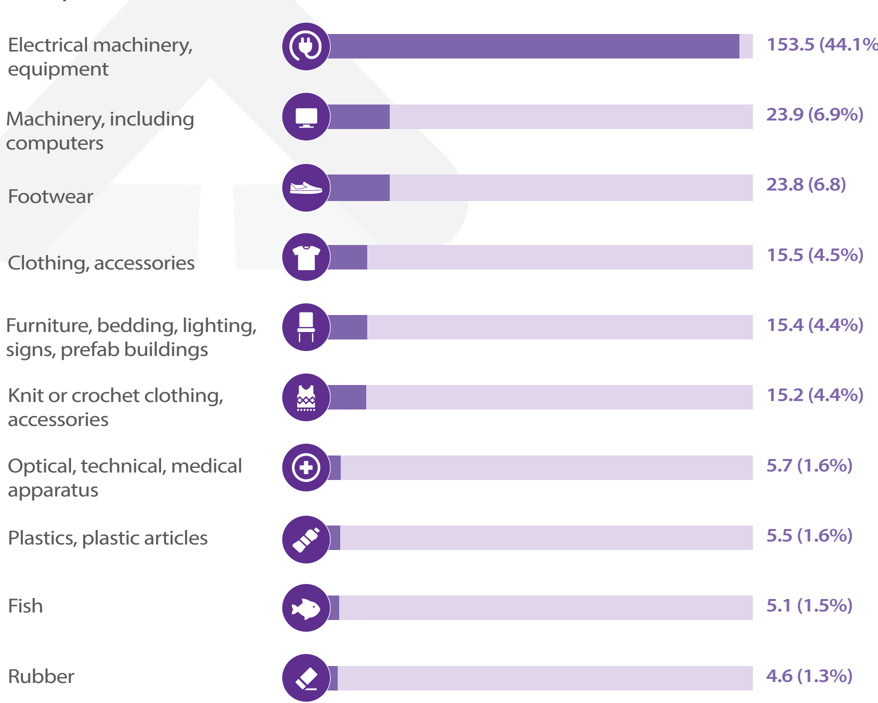
Vietnam's economy is expected to grow by 2.5 percent in 2021 as per the World Bank while government officials forecast GDP to grow between 3.5 and 4 percent provided the pandemic is brought under control.

In 2020, Vietnam recorded a 2.91 growth rate, one of the few countries to record positive economic growth in Southeast Asia.

This has partly been driven by increased exports to the US, which jumped as companies moved production to the country to escape tariffs on Chinese goods.

Vietnam's geographical position in the regional supply chain and extensive network of free trade agreements puts the country in an advantageous position as US-China tensions have continued to simmer.

The US was Vietnam's largest export market in the first four months of 2021 with a value of US$30.3 billion, up 50 percent year-on-year; China came in second, followed by the EU, according to Vietnam's General Statistics Office (GSO).

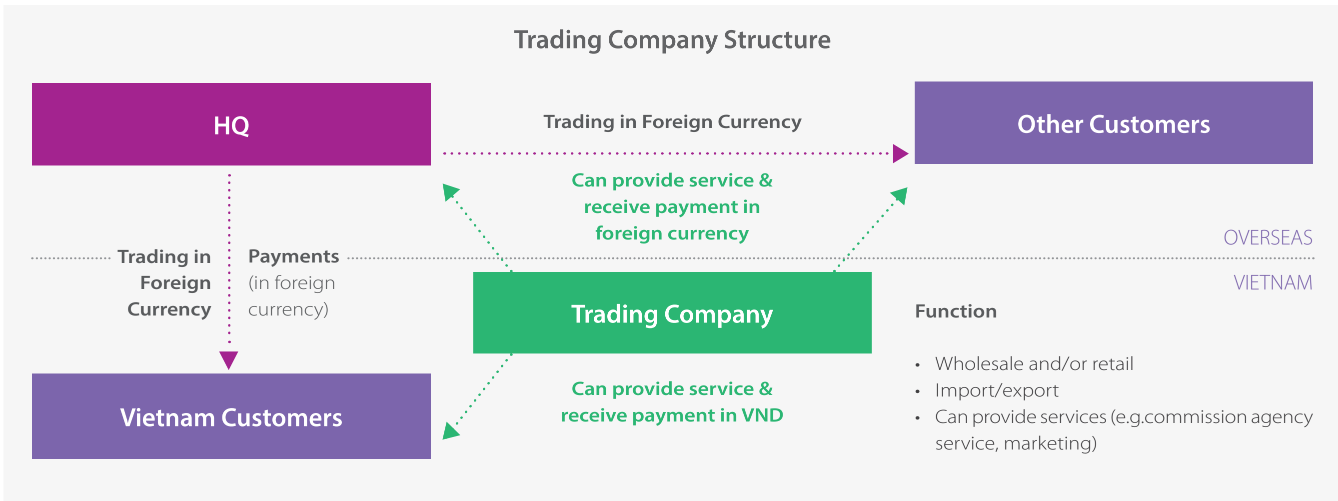


Beyond this, Vietnam's burgeoning middle class is attractive to many global conglomerates. For example, a recent report by DBS Bank noted that Vietnam could grow as much as 6.5 percent over the next 10 years and pass Singapore in market size by 2029.

Given these factors, it makes sense that companies manufacture products in Vietnam not only for the domestic market but also export their products to foreign markets making use of Vietnam's free trade agreements, financial incentives, and manufacturing capacity.

Here, we provide a general guide on export requirements in Vietnam.

Following relevant import and export procedures and regulations is a vital aspect of doing business in Vietnam where manufacturing costs are leveraged to favor businesses. Goods that are imported or exported are subject to the relevant custom standards and inspections, which effectively check the quality, specifications, quantity, and volume of goods.



Business models for trade

If a business wants to engage in import and export activity, as well as domestic distribution (such as retail and wholesale) in Vietnam, the most common set up method is setting up a trading company.

A trading company is typically an inexpensive establishment option, and it allows companies to engage in both sourcing and control activities with facilities for purchasing materials and exporting products. In contrast to businesses that source from Vietnam without a local presence, a trading company allows a business to retain more control over their operations and manage any supply chain issues quicker.

Establishing a trading company takes approximately five months, and while there is no minimum capital required, the company does need to review and maintain compliance with regulations for their business activity.

Once the investor has set up a trading company, they must register with the Department of Planning and Investment (DPI). While Vietnam does not require a company to have an import or export license, registration with the DPI is essential to import or export for business.

Required documentation

Companies that regularly export and import the same exact goods within a given period may use a single customs declaration form. However, this is only possible when the goods are listed under the same purchase and sales contract and are delivered within the delivery time listed on the purchase contract.

Certain goods require the trading company to obtain import and export permits from the government, as per Appendix III of *Decree 69/2018/NĐ-CP*.

All imports and exports must comply with the relevant government regulations on quarantine, food safety, and quality standards, and must be inspected by relevant government agencies before clearing customs.

Customs documents

Importers and exporters must submit a dossier of documents to customs authorities. The dossier must include the company's business registration certificate and the import or export business code registration certificate.

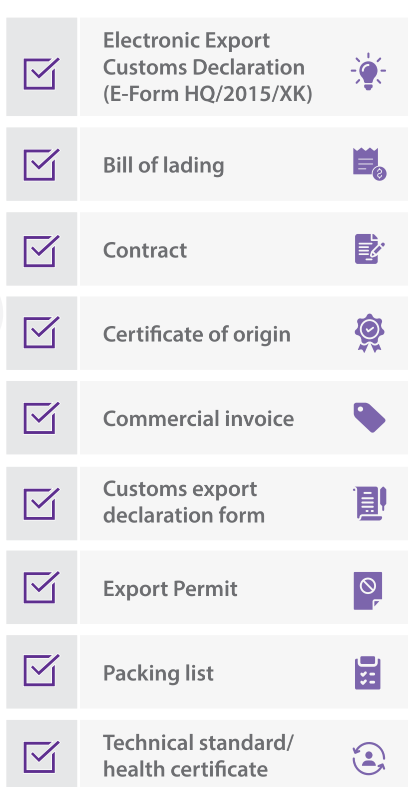
If importing, it is best to register your business on the National Business Registration Portal website and register customs declaration on the Vietnam National Single Window Portal website.

Export shipment procedures are typically completed on the same day. Import shipments typically take around one to three days to complete for full container loads (FCL) and less than container loads (LCL), respectively.

The documents listed on the right are required for exporting goods.

Customs document checklist

Documents required for exporting goods



Customs fast track and priority

For those seeking to reduce customs compliance costs, it is possible to apply for priority treatment.

Under priority treatment, qualifying companies will become eligible for a range of benefits that are sure to reduce customs clearance times and thus reduce costs.

Companies that meet the following standards, outlined under Decree No. 08/2015/ND-CP, will become eligible for preferential customs treatment:

- Compliance with the law on customs and taxation from the date on which the enterprise files a priority application for a period of two years;
- Compliance with the law on accounting and auditing and subsequent compliance with Vietnamese Accounting Standards (VAS);
- Maintenance of a system and process for managing, monitoring, and controlling import and export supply chains; and
- Maintenance of specific export and import turnover requirements (for those importing and exporting, an annual turnover of US$100 million is required. For those exporting goods made in Vietnam, an annual turnover of just US$40 million has been set while Vietnamese exporters of agricultural goods are only required to show a turnover of US$30 million).

According to the Law on Customs, companies qualifying for the priority treatment program will benefit from the following:

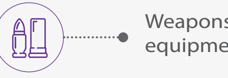
- Exemption from examination of supplementary customs documentation;
- Exemption from physical inspection of goods;
- Ability to submit incomplete customs declarations (it should be noted that within 30 days from the date of registration of incomplete customs declarations, or submission of documentary evidence in substitution of customs declarations, customs declarants will be required to submit complete customs declarations); and
- Prioritized access when carrying out tax formalities for goods in accordance with the law on taxation.

Restricted goods

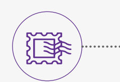
As per to Decree No. 69/2018/ND-CP detailing a number of articles of the Law on Foreign Trade Management ("Decree 69"), Appendix I records goods banned from export and goods banned from import.

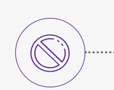
According to Circular 34/2013/TT-BCT, there are certain goods that foreign invested enterprises may not export from, or import into, Vietnam. The listed goods (top right table) are currently prohibited from being purchased and imported or exported from Vietnam. This list applies to the export and import of commercial and non-commercial goods, as well as export and import of goods at border areas.

Restricted Goods (Exports)


Weapons, ammunition, explosive materials, and military technical equipment

National relics, antiques, and cultural products that belong to the government, political organizations, and socio-political organizations


Postal stamps in the category prohibited from business, exchange, display, and propagation as prescribed by the law on post


Types of cultural products banned from dissemination and circulation in Vietnam

Logs, sawn timber from domestic natural forests

Many categories of precious wild fauna and flora, animal breeds, plant varieties, and precious products of aquaculture

Some coding machines and cryptographic software programs used for the protection of government secrets

Chemicals under the list of banned chemicals prescribed in Appendix III to Decree No. 113/2017/ND-CP

High Growth Import and Export Industries

Here, we look at the four most sustainable trade industries, suited for high-growth exports and imports.

Electronics

Vietnam has emerged as a major electronics exporter, with electrical and electronic goods overtaking textiles, coffee, and rice to become the top export item.

This has been attributed to increased imports from several Asian countries including, Japan, South Korea, and China. In 2019, electronics accounted for 36 percent of the country's exports, up 1.15 percent in 2018.

To move domestic manufacturing up the value chain, many companies in the country are investing in machinery and technology to support more exports.

Currently, 95 percent of electronic exports are dominated by foreign-invested businesses, particularly those that produce smartphones and CCTVs.

Vietnam relies heavily on imported machinery and equipment from China, followed by South Korea and Japan, in this industry.

Businesses that need to import machinery to produce electronics should note that the authorities passed *Decree No 18/2019/QD/TTg* to ban the import of outdated, poor quality, and unsafe equipment.

Footwear

The footwear industry has benefited from several favorable factors throughout its growth in the country. The EU-Vietnam free trade agreement (EVFTA) is expected to significantly help the sector. Top footwear exports were to China, the EU, and the US.

Major US footwear companies such as Nike and Sketchers have already shifted production to Vietnam. The Producers Guild of America (PGA) is also working on a tax bill that will cut tariffs on several lines of imports that include footwear and textile produced from Vietnam.

Vietnam is able to supply leather materials and accessories for the footwear market. It's forecast that Vietnam will be able to supply 60 percent of the leather materials required domestically by 2030, compared to the 45 percent manufacturers sourced locally in 2018.

Footwear and leather exports hit nearly US$16.5 billion in 2020, down 10 percent due to the pandemic.

Due to the disruption caused by the pandemic, Vietnam Leather, Footwear and Handbag Association (LEFASO) noted that local firms should take advantage of the opportunities such as the free trade agreements and US-China tensions to boost productivity and exports.

The industry still needs to address increasing labor costs, and the Industry 4.0 question mark, but many analysts expect the industry to remain competitive for the next two decades.

Garment and textiles

Vietnam has approximately 6,000 garment and textile manufacturing companies employing 2.5 million people, and its top export destinations are leading consumer markets – the US, Europe, Japan, and South Korea.

The industry's growth is also being fueled by increased domestic consumption, fueled by a young demographic, and increasing urbanization.

Retail sales are growing at a rate of 20 percent annually and are forecast to expand, thanks to several free trade agreements.

Germany-based Amann Group and US-based Kraig Biocraft Laboratories are among the companies that are poised to scale up manufacturing production in Vietnam.

Due to the US-China trade war, the help of Vietnam's FTAs, analysts believe the industry will maintain high growth potential, with a forecast export turnover of US$200 billion until 2035.

Furniture, prefabricated buildings

Furniture, lightings, and prefabricated buildings feature high on Vietnam's export list. The sector accounted for 4.4 percent of Vietnam's exports in 2020.

The effect of the CPTPP and EVFTA is further expected to propel Vietnam as the second-largest interior furniture exporter after China in the next seven to eight years with new markets in Canada and Mexico, apart from traditional markets like the US, EU, China, and South Korea. The industry is expected to grow by 16 percent year on year.

Even with this growth, the furniture industry remains small and has immense potential to become a major supplier and exporter.

The same can be said about prefabricated buildings, which are building structures that are manufactured offsite and transported for onsite assembly.

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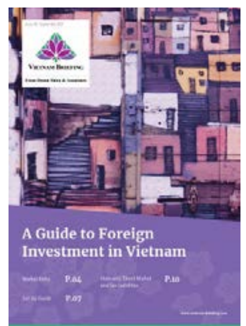

Learn how foreign investors can enter the Vietnamese market including market entry options, land use rights, labor market and more.

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Such types of buildings are gaining in popularity not only in the commercial sector but also in the residential living space. The government wants the building materials sector to achieve a higher level of automation by 2030.

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EXPLORE MORE

Rules of Origin

By Dezan Shira & Associates

For businesses seeking to take advantage of tariff-free exports and low labor costs, Vietnam has become the ideal destination.

In 2019, manufacturing and processing accounted for 64.6 percent of total investment capital and with the recent signing of several free trade agreements, including the EVFTA and the CPTPP, this amount is expected to rise.

As a compliment to pending agreements, Vietnam already benefits from operational FTAs with members of the Association of Southeast Asian Nations (ASEAN), China, Japan, South Korea, India, New Zealand, Australia, and Russia.

Although FTA agreements present a tempting way to lower export costs, the ability to tap into their benefits is largely contingent upon compliance with elaborate rules outlined within each agreement. At hundreds of pages in length, agreements set out specific tariff concessions and compliance requirements at a product-specific level.

Rules of origin: A primer

In order to ascertain how goods will be treated, it is first necessary to identify the Harmonized System (HS) code that will be designated to the finished product. This is to determine the applicable tariff. The HS system is a classification of products and allows participating countries to classify traded goods for customs purposes. HS codes classify goods in a six-digit code system.

From a compliance perspective, HS codes are also used to determine the requirements that a good will be subject to under an FTA. Areas of compliance will often pertain to how a good is produced, how it is labeled, and the certifications that it requires to be exported and recognized.

To understand the specifics applied under a given agreement, one of the most important sections of an FTA is that of rules of origin. Rules of origin establish the method by which signatories of free trade agreements determine if goods entering their borders qualify for the benefits of the agreement.

It is also important to note that rules of origin are included and utilized within international law to determine when to apply anti-dumping duties.

In order for Vietnamese exports to qualify for tariff reductions under free trade agreements of which Vietnam is a participant, rules of origin requirements mandate varying degrees of the manufacturing process to be conducted within Vietnam. According to the World Trade Organization (WTO), "Rules of origin are the criteria needed to determine the national source of a product." The objective of these rules is to enforce the trade agreement and to prevent third parties from free riding on concessions of FTA signatories.

Adapting to the layered and global nature of most industrial supply chains, rules of origin chapters have become increasingly complex and require careful due diligence to ensure company compliance.

Product specific requirements

For a product to benefit from tariff reduction, it must "originate" from a country party to the trade agreement. The product can be "wholly obtained" from that nation or meet certain requirements if the product is "not wholly obtained".

What are Rules of Origin?

"*Rules of origin are the criteria needed to determine the national source of a product.*"
- WTO

Which Laws Will Apply to My Products?

- National Rules of Origin
  - Applied by customs authorities in the absence of a preferential trade agreement.
  - Rules are based on national customs guidelines.
- Preferential Rules of Origin
  - Applied by customs authorities when a free trade agreement is in place.
  - Rules are based on the text of the free trade agreement.

"Wholly obtained goods"

These generally refer to raw materials and other resources, such as livestock and agriculture. These goods must be sourced exclusively from within the FTA zone or territory to qualify for tariff reductions. Under many free trade agreements, a list of goods that must meet these requirements is specified.

For companies involved in the sale of similar goods from multiple jurisdictions, it will be important to ensure a thorough understanding of how raw materials and other exports are treated under Vietnam's FTA framework.

For companies exporting goods from both Vietnam and China, it may not be possible for Chinese produced goods to qualify for tariff reductions under certain agreements.

Goods not "wholly obtained"

While some goods must be entirely sourced in Vietnam by their inclusion under FTAs as wholly obtained goods, modern trade agreements also attempt to accommodate the rise of multinational supply chains through certain allowances.

Outlined under trade agreements as regulations pertaining to not wholly obtained products, many goods must meet certain requirements to benefit from tariff reductions.

There are two ways that a non-wholly obtained product is generally classified as eligible for tax breaks:

- It has been sufficiently transformed within the FTA zone; and
- A certain percentage of the product is originating from that area.

The standard for each of these categories varies based on the agreement and the goods in question. It is common for FTAs to require that a certain percentage of inputs be sourced from within the FTA zone and that the goods undergo a degree of change within the zone to qualify for reductions.

Furthermore, the technique by which the value for each category is evaluated differs based on the agreement and the goods in question.

Classification of goods

Products or inputs are commonly viewed by customs as one of the following:

Wholly obtained

Products that are entirely produced from a specific country

Example: coffee grown in Vietnam

Non-wholly obtained

A product with **components from multiple countries** that has undergone "sufficient working" in one country to be considered originating

Example: Cell phone assembled in Vietnam with components from Malaysia, Korea, and China

Non – originating

Products or material that are sourced from third party markets

Example:
1. Goods shipped through Vietnam
2. Goods that undergo minimal processing in Vietnam (cleaning, packaging, etc).

For companies attempting to benefit from tariff reductions, the challenge is not only to navigate complex rules that determine an originating product but also to manufacture goods in a way that is suitable under several trade agreements. It is crucial to conduct a cost-benefit analysis of manufacturing in accordance with the complex FTA guidelines.

Supply chain and logistics optimization

Vietnamese based operations are never far away from potential suppliers in China and India, while a great distance from sources of demand in the Americas and Europe.

To facilitate regional supply chain integration and support the shipment of goods to their final destination, free trade agreements are increasingly being used to gain a competitive advantage due to lesser administrative procedures and lower tariffs.

Advantages of cumulation

In an attempt to further adjust to extensive supply chains, articles pertaining to cumulation allow companies to maintain multinational supply chains without losing originating status. The main objective of cumulation is to allows least developed countries (LDCs) to combine originating materials without losing originating status of the materials and to jointly share materials or production. Because it is impractical for businesses to manufacture entirely in one nation, FTAs authorize the producer to tap into tax reductions while utilizing the comparative advantage of several countries that may not be included within the FTA in question.

Manufacturers can work in countries within the zone of an FTA or in a nation collaborating with the agreement. For example, under the EU-Vietnam FTA, if a fabric originating in South Korea is brought to Vietnam and further processed, it can be considered as originating in Vietnam and applicable to the tariff break under the agreement.

Those with existing supply chains in close proximity to Vietnam should review articles of cumulation found within Vietnam's FTA network to ensure that goods are afforded the lowest tariffs possible upon export.

Transit/Transshipment

To accommodate companies whose products are shipped through several ports, FTAs ensure that applicable goods do not lose preferential status simply due to the transit route. While this gives manufacturers the freedom to ship along the best-suited lane, importers may require proof that the good was in no way altered at an intermediate location, which would disqualify it from the reduced tariff.

Challenges

The rules of origin under FTAs are incredibly detailed and complex. Countries may also be party to several FTAs that have different rules of origin. Given the widespread nature of supply chains, it is important for companies to harmonize in accordance with the varying trade agreements. Manufacturers are also obligated to keep records of the eligibility of their goods and are subject to customs audits. At the very least, this involves keeping track of the origin of the materials besides value addition during the production stages.

Export Duties Explained

By Dezan Shira & Associates

Vietnam uses the HS system and most goods imported or exported across the borders of Vietnam, or which pass between the domestic market and a non-tariff zone, are subject to import and export duties.

Exceptions to this include goods in transit, goods exported abroad from a non-tariff zone, goods imported from foreign countries into non-tariff areas for use in non-tariff areas only, goods passing from one non-tariff zone to another, and goods for humanitarian or grant aid.

Most goods and services being exported are exempt from tax. Export duties – ranging from zero to 45 percent and computed on free-on-board (FOB) price – are only charged on a few items, mainly natural resources such as minerals, forest products, and scrap metal.

Import and export duties declarations are required upon registration of customs declarations with the customs offices. Export duties must be paid within 30 days of registration of customs declarations. For imported goods, import duties must be paid before receipt of consumer goods.

Depending on the trade conditions, Vietnam imposes several different types of duties on the import and export of goods. Companies wishing to find in-depth information on a range of goods can check the website of Vietnam Customs.

Tax exempt goods

In certain situations, imported and exported goods are exempt from tax, as per Article 16 in *Law No. 107/2016/QH13* including the following:

- Goods temporarily imported for re-export or temporarily exported for re-import;
- Goods imported for processing for foreign partners then exported or goods exported to foreign countries for processing for Vietnam then re-imported under processing contracts;
- Goods imported to create fixed assets for projects entitled to investment incentives or investment projects fund with official development assistance (ODA) capital sources;
- Goods imported in service of petroleum activities; and
- Goods imported for direct use in activities of scientific research and technological development.

Import and export tax calculations

The payable import and export tax amount is equal to the unit volume of each actually imported or exported goods item.

These are inscribed in the customs declarations and multiplied by the tax calculation price and the tax rate of each item, which is stated in the tariff at the time of tax calculation.

The following tax calculation method is most applicable:

- Payable tax = unit volume of each actually imported/exported goods item x the tax calculation price x the tax rate of each item at the time of calculation.

Note: the tax calculation price is the price in foreign currency x exchange at the time of import and export of goods

The following tax calculation method is application for goods subject to absolute tax:

Payable tax = unit volume of each actually imported/exported goods item x the absolute tax rate provided for goods unit at the time of tax calculation.

Taxes on export processing enterprises

Export processing enterprises (EPEs) are enterprises that are established and operate in an export processing zone (EPZ) or enterprises which export all of their products and operate in an industrial zone or economic zone. EPEs set up in an EPZ, which offer tariff-free trade are allowed to sell goods to the local market, however, import duties may be payable by the recipient.

EPEs are subject to standard corporate income tax (CIT). This tax is also applicable to foreign income. However, similar tax paid overseas is deductible from the Vietnamese CIT.

Scenario	EPE	Non EPE
EPE import from Overseas	Zero duties and VAT	N/A
EPE export to overseas	Zero duties and VAT	N/A
EPE purchase from/sell to EPE	Zero duties and VAT	N/A
EPE purchase commodity from non-EPE in Vietnam	Zero duties and VAT	No VAT but export duties may apply
EPE sell commodity (i.e.finished product) to non-EPE in Vietnam	Zero duties and VAT	VAT and duties apply as a normal import shipment

Generally, in transactions with overseas entities or other EPEs, they do not have to pay any import-export duties (import-export VAT and import and export tax, but still have to pay CIT on gross profit). However, in case an EPE buys goods from domestic companies, those goods are subject to export duties.

As per Vietnam law, the exported parties in Vietnam are in charge of export duties. In addition, if an EPE buys goods and services which is used outside of the EPZ, they still have to pay VAT of 10 percent.

EPEs are subject to stringent customs checks in order to ensure that all materials imported are used legitimately for goods to be exported. Any discrepancies, either surplus or minus, between accounting books and customs declarations will be subject to taxes and duties.

A surplus discrepancy occurs when the balance of materials in the accounting books is higher than that in the customs finalization report (i.e., the amount of imported materials exceeds the number of materials used to manufacture exported goods).

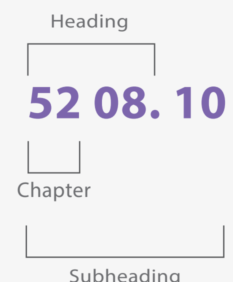
If the surplus materials are still in stock, no tax or duties need to be paid. If the surplus materials cannot be traced, taxes may be payable.

A minus discrepancy means the balance of materials is higher in the customs report than in the accounting books. This could be due to materials being sold to the Vietnamese market; if this is the case, import tax and VAT is payable.

According to OL 9376, minus discrepancies will not be assessed for import tax in either of the following scenarios:

- The minus discrepancy is as a result of "declaration norms which is lower than actually used";
- The minus discrepancy is a result of differences in measurement units between EPE and Customs;
- No local sale of materials has been made by the EPE; and
- Customs cannot find evidence of such local sales.

Harmonized System (HS)



All countries are required to classify the same substance under the same Subheading

EPE tax illustrations

The following two simplified examples help to illustrate when an EPE located in an EPZ has duties and/or tax obligations coming from surplus or minus discrepancies.

Firstly, the accounts of Company X state that 50 pieces of Material A were imported. On the other hand, the customs finalization report says that only 48 were used in the goods exported.

Whether Company X is obligated to pay duties depends on whether the two non-exported pieces are still in stock:

- If the surplus (two pieces) are still in stock, no import tax is due; and
- If they cannot be traced, the company is required to pay import taxes

Secondly, the accounts of Company Y state that 50 pieces of Material B were used for export goods. Contrary to the previous example, the customs finalization report says that 52 were imported and used, thus implying a minus discrepancy.

In this scenario:

- If the discrepancy (two pieces) were sold to the Vietnamese market, import tax is payable on these pieces; and
- If the discrepancy is simply because of differences in calculation or a declaration lower than actual usage and no evidence of local sale can be found, no import tax is payable.

TRADE AND E-COMMERCE

Dezan Shira & Associates has helped many foreign companies source and sell products in Asia, set up retail operations on the ground to sell directly to Asia's massive consumer class, and access Asia's dynamic e-commerce market. The firm retains experts on a country-by-country basis, ensuring that clients are able to grow their business in key markets across East, Southeast, and South Asia.

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