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## Guide to Starting a WFOE in Vietnam

*Unless otherwise indicated, the WFOE mentioned in this guide refers to a limited liability company formed and incorporated in Ho Chi Minh City, Vietnam in accordance with the Law on Investment and wholly owned by one or more foreign companies or individuals.*

### Introduction

Vietnam is strategically located on the eastern margin of the Indochinese peninsula, bordering Guangxi and Yunnan, China to the north and Laos and Cambodia to the west. Recently, Vietnam is considered to be one of the fastest-growing economies in the world and one of the most opened markets in Southeast Asia. Vietnam has become a member of Association of Southeast Asia Nations (“ASEAN”), joined Asia-Pacific Economic Cooperation group (“APEC”) and World Trade Organisation (“WTO”). Meanwhile, Vietnam has signed numerous Free Trade Agreements (FTAs), especially EU-Vietnam Free Trade Agreement (EVFTA) and the Progressive Agreement for Trans-Pacific Partnership (CPTPP). These and other treaties make Vietnam be a preferred destination for the foreign investors.

A WFOE in the form of a limited liability company is by far the most popular investment vehicles in Vietnam amongst foreign investors. Basically, for the purpose of incorporation of the WFOE in Ho Chi Minh City, Vietnam, you will need to provide the identification documents and address proof of each shareholder and director, the proposed registered capital, the capital allocation of shareholders (if more than one shareholder), the registered address, the official financial proof of the investor and the main business scope with the business model of WFOE. The required documents and materials are detailed in [Section 4](#) of this guide.

In general, the whole processing time for the registration of the WFOE in Ho Chi Minh City, Vietnam which conducting the business activities approved by the government, takes about 70-90 working days. It should however be noted that the Department of Planning and Investment (DPI) may acquire further review according to the identity of the investor and the business activities conducted or request for documents supplementation and therefore some of the procedures may take longer than expected.

## 1. The Basic Structure of Vietnam WFOE

### (1) Name of WFOE

The name of a WFOE must be distinguishable from the names reserved or already registered with DPI.

### (2) Registered Address

The registered office address of Vietnam WFOE must be located in Vietnam. Please note that it is mandatory to provide a Vietnam office address when handle the WFOE registration with DPI. In order to meet the requirements of Vietnam Law on Investment, Kaizen can provide an address in Ho Chi Minh City to be used as the registered office for Vietnam WFOE for one year. Kaizen could also receive and forward letters and couriers on behalf of our client.

### (3) Capital

Vietnam Law on Investment does not have a minimum capital requirement to incorporate a WFOE. The shareholders can decide the amount of initial capital. However, it is recommended to set the registered capital at USD100,000.

### (4) Shareholders

The number of shareholders of Vietnam WFOE shall not exceed 50 persons. The shareholder could be a legal person or a natural person. There is no restriction on the nationality of the shareholder.

### (5) Directors

There is no restriction on the nationality or the number of directors. However, your Vietnam WFOE must have at least one at-law representative, who is required to reside in Vietnam, as a resident. Under the point of view of the Tax Authority, a person can be deemed as “resident” if he lives at least 183 days per year in the country (could be Vietnamese or a foreigner holding a Vietnam resident card).

Kaizen may provide our client with an at-law representative who can satisfy conditions of residing in Vietnam. Please contact our professionals for more detailed information on the abovementioned matter.

(6) Company Charter

At the time of registration, Vietnam WFOE shall declare whether it will use a model company charter or a customized company charter. Kaizen can assist you in the registration of a company based on a model or a customized company charter depending on your preference. In case that our client would prefer to use the customized company charter, Kaizen can conduct the registration of a company on the client's behalf based on the customized company charter, draft or review the company charter that is customized to contain necessary terms required by our client and translate it into Vietnamese language.

## 2. Taxation

Vietnam WFOE is subject to the following taxes:

(1) Corporate Income Tax

From 1 January 2016, the standard corporate tax rate is 20%, coming down from 22%. However, the certain industries may have a higher tax rate applied (e.g. oil and gas operations and natural resources industry – 32 % to 50 %). In order to attract more investors to invest in Vietnam, the Vietnamese government provides numerous tax incentives including but not limited to the following:

- (a) 10% preferential CIT rate for 15 years is applicable for:
  - (i) Certain qualifying economic and high-tech zones, as well as especially difficult socio-economic areas;
  - (ii) Certain encouraged sectors, including cultivating high-tech enterprises, investment in the construction of incubation bases for high-tech enterprises, investment in the development of water plants, power plants, bridges, roads, railways, airports and other key infrastructure projects determined by the government;
  - (iii) Certain encouraged sectors as environment protection;
  - (iii) Qualified manufacturing products.
- (b) 10% preferential CIT rate for entire life is applicable for:
  - (i) Certain public sector fields such as education, healthcare, culture and sports;

- (ii) Publishing and newspaper printing activities conducted by publishing and printing houses in accordance with Publishing Law;
  - (iii) Cultivation and protection of agriculture and forestry.
- (c) 17% preferential CIT rate for 10 years is applicable for:
- (i) Certain encouraged sectors, including manufacturing of high-quality steel, energy-saving products, production of agriculture, etc;
  - (ii) Difficult socio-economic areas.

If there are operating losses of the companies, the losses may be carried forward for a maximum of five years, carry back of losses is not permitted. The general losses could offset the revenue not applicable to preferential CIT, the losses occurred during the transfer of real property and joining property investment, the losses could offset the profit from the main business activities.

The provisional quarterly corporate income tax payment is required in accordance with the Vietnam Tax Law. The quarterly provisional corporate income tax payments based on estimates. The CIT Return should be completed and submitted within 90 days after the end of the accounting year.

Please note, that Vietnam government has approved a 30% reduction of CIT for the 2020 financial year to support businesses affected by the COVID-19 pandemic. This resolution already took effect on August 3, 2020. This CIT reduction will apply to all businesses with a total revenue of less than VND 200 billion for the year 2020, including small, medium-sized businesses and cooperatives.

## (2) Value-Added Tax

The goods, services and imported goods for the purposes of production, trading and consumption in Vietnam will need to levy on Value-Added Tax (hereinafter referred to as “VAT”). The calculation of the VAT can be divided into deduction method (the difference between output tax and input tax) and direct method (calculate according to the VAT tax rate for the transaction).

The VAT rate in Vietnam could be divided into three levels, there are 0%, 5% and 10%. The standard VAT rate is 10%.

The export of goods or services applicable to 0% tax rate, including the export of goods to the overseas or non-tariff area, the goods or services that consumed out of the territory of Vietnam or non-tariff area, processed goods for export and domestic

export, the export of duty free shops goods, certain export services, construction and installation services provided to the companies of processed goods, international transportation services by air, sea, etc.

The 5% tax rate applicable to the areas involving the life essentials products and services, including the cleaning supplies, teaching materials, books, non-processed foods, medicine and medical equipment, various agricultural products and services, technology services, sugar, art and sports products, etc.

Vietnam WFOE shall submit the monthly VAT returns before the 20th of the following month. For the WFOE that annual turnover is below the Vietnamese Dong (VND) 50 billion, could submit the VAT return quarterly.

Vietnam WFOE could print out the invoices or electronic invoices by themselves. The tax invoices contents must include the items stipulated by law, and they shall register at the local tax authority.

### **3. Vietnam WFOE Procedures and Timeframe**

Under normal circumstances, if the company name and the business scope do not need an extra license or permit, the whole process for registration of WFOE in Vietnam takes around 70 to 90 working days.

#### **(1) Choose a Company Name**

Proposed company name cannot be similar to other names that already on file. Kaizen can help our client to perform a name availability search and reserve the name.

#### **(2) Prepare and File Certificate of Incorporation**

To register your WFOE in Vietnam, the incorporation documents and registration forms with the application fee should be filed with DPI, and an Investment Registration Certificate (hereinafter referred to as “IRC”) with an Enterprise Registration Certificate (hereinafter referred to as “ERC”) will be issued accordingly. The ERC will be accompanied by a number that will double as the tax registration number of the entity.

#### **(3) Open Corporate Bank Account**

Once the WFOE duly incorporated in Vietnam, the incorporation documents should be submitted to the bank for bank account opening.

Kaizen can provide the assistance to open Vietnam corporate bank account remotely for our client instead of visiting Vietnam in person, and most documents required for bank account opening will be also prepared by Kaizen. In Vietnam we cooperate with such leading commercial banks as Standard Chartered Bank if our client prefers a foreign capital bank and Techcombank or Vietcombank if our client prefers a local bank. Please feel free to reach out to our consultants for the details.

Please note that the registered capital shall be remitted to the company bank account within 90 days after receiving the ERC of the WFOE. There will be a fine if the client does not remit the registered capital within a specified timeframe.

(4) Tax Registration with the Local Tax Management Authority

Once the aforementioned procedures have been completed successfully, Vietnam WFOE shall announce the WFOE's information on the Vietnam National Business Registration Portal in compliance with relevant regulations. Thereafter, Vietnam WFOE shall be registered with the local Tax Management Authority to apply for Tax Registration Certificate.

Please note that the tax registration is required to be conducted with the local Tax Management Authority within 30 days since the issuance date of the ERC.

#### 4. Required Documents and Materials

To incorporate in Vietnam, it is required to provide the following materials:

- (1) Two or three names of the proposed Vietnam WFOE. The names of WFOE shall be provided in English and Chinese names or other foreign names cannot be registered;
- (2) The passport copies of the shareholder and the address proof document (such as utility bill, telephone bill or bank statement); If the shareholder is a legal person, the following documents shall be provided:
  - (a) Company Registration Certificate;
  - (b) Articles of Association;
  - (c) The latest Annual Return form, or the Certificate of Incumbency issued within 6 months (or other relevant documents);
  - (d) The latest register of shareholders and the register of directors;
  - (e) The passport copies and the address proof document (such as utility bill, telephone bill or bank statement) of the legal representative.
- (3) The passport copies of director and the address proof document issued within 3 months (such as utility bill, telephone bill or bank statement);

- (4) The official financial proof of the foreign shareholder (the certificate of account balance). The certificate of account balance shall be greater than the capital to be invested in Vietnam to prove that investor has the financial capacity to establish a new company. Therefore, Kaizen suggests providing the certificate of account balance with a balance greater than the registered capital of the company. If the shareholder is a legal person, please provide Company Registration Certificate, the register of shareholders & directors and the certificate of account balance of the company. Meanwhile, the authority also has the right to request the latest audit report of the company, or other supplementary documents regarding the company's financial status, based on the actual situation;
- (5) The registered capital of the WFOE as stated in Section 1(3) of this guide;
- (6) The basic background information of the WFOE, such as the principal business activity, the number of employees expected to be recruited, the expected turnover for the first year, etc;
- (7) The proposed fiscal year of the Vietnam WFOE. Generally, the fiscal year for the Vietnam WFOE is from January 1st to December 31st, however, if client would like to align the fiscal year of Vietnam WFOE same as the headquarter, Kaizen could assist to apply to change the fiscal year so that it could align with the headquarter.

Please note that any foreign documents of Vietnam WFOE, including the identification documents of the directors and shareholders, the shareholder's Certificate of Incorporation, Articles of Association or other supporting information provided will be required to be legalized at the Vietnam Embassy where the investor is located first, then translated into Vietnamese and notarized at the local notary office in Vietnam. Meanwhile, the authority is entitled to require investors to notarize the investors' financial proof or the company's latest audit report or other supplement documents.

## 5. Documents to be Returned

After all incorporation procedures are completed, the following documents should be returned to you for your retention and as proof that your Vietnam WFOE is duly registered:

- (1) The IRC issued by the DPI;
- (2) The ERC issued by the DPI;
- (3) Company Charter;
- (4) Tax Registration Certificate;
- (5) Company Stamp, Register of Shareholders and other documents.

## 6. Annual Compliance Requirements

### (1) Monthly Financial Statement and Tax Declaration

Each WFOE registered in Vietnam is required to prepare a financial statement every month and submit the financial statement to the Department of Taxation in Vietnam. The declaration should complete before the 20th of the following month. The Vietnam financial statements stipulate that the accounting record should set the monetary unit as VND. If the foreign transaction is often occurred by a WFOE, the WFOE could choose another currency as the main monetary unit when certain conditions are met.

The accounting vouchers and accounting books can be kept by paper documents or electronic media. If the accounting vouchers and accounting books keep in the electronic media, no printing is required. If the Vietnam competent authority requires inspection, the electronic vouchers and the accounting books will need to print out, signed or stamped by the legal representative and the accountant. The accounting vouchers and the accounting books shall keep for at least 10 years.

Generally, the Vietnam WFOE accounting period is 12 full months according to the calendar year. If the accounting period of the Vietnam WFOE is a non-calendar year, they shall notify the tax authority. The first year of the WFOE registered is count from the date receiving the ERC until the December 31st of the same year, it will be the first accounting year. If the first annual accounting period is shorter than 90 days, it could allow adding the first period to the subsequent annual accounting period for counting as an annual accounting period.

In addition to financial statement, Vietnam WFOE is also required to file and pay monthly tax returns. Please refer to [Section 2](#) of this guide to be more familiar with the tax system in Vietnam.

### (2) Annual Audit

The financial statement of the Vietnam WFOE shall audit by the local accounting firm in Vietnam. The audited financial statement generally shall be approved by the legal representative and the accountant, and it must be completed within 90 days after the end of the fiscal year. The listed company should prepare an interim financial statement and it shall be reviewed by auditor, the interim financial statements shall be completed within 45 days, after the end of the first 6 months of the fiscal year.

The audited financial statements shall submit to Ministry of Finance, local Tax Department, and other competent authorities in accordance with the law in Vietnam.



### (3) Employing Local and Foreign Employees in Vietnam

According to the Vietnam Labour Law, the employer and the employee shall sign for a labour contract, the employee could sign a contract with a specified term for only 2 times, after that, the labour contract shall sign without a specified term.

The working hours are 8 hours a day and 6 days per week. Besides the public holiday with paid leaves, the employee will have 12 days of annual leave a year. For the service year of every 5 years in each company will increase one-day annual leave. The Vietnam Social Insurance Law systems will replace the severance pay. If the employer signs a contract with the employee for more than 1 month, the employer shall provision of social insurance, medical insurance, unemployment insurance, etc.

**KAIZEN Group** is equipped with experienced and highly qualified professional consultants and is therefore well positioned to provide professional advices and services in respect of the formation and registration of company, application for various business licences and permits, company compliance, tax planning, audit and accounting in Vietnam. Please call and talk to our professional consultants for details.



If you wish to obtain more information or assistance, please visit our official website at [www.kaizencpa.com](http://www.kaizencpa.com) or contact us through the following means:

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