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# Vietnam

## Construction Permit for Foreign Contractors in Vietnam

In recent years, Vietnam has experienced favorable growth in the nation's construction industry and the construction sector shows no sign of stagnation. For foreign contractors, it is a legal prerequisite to obtain a proper license ("construction permit"), in order to operate in Vietnam. The legal requirements are applicable to an extensive group of foreign contractors, including general contractors, main contractors, joint venture contractors and subcontractors.

### Criteria for the Issuance of Construction Permits for Foreign Contractors in Vietnam

According to regulations promulgated in decree no. 59/2015/N-CP on management of construction project and circular no.14/2016/TT-BXD guiding on the licensing of construction activities and the management of foreign construction contractors in Vietnam, foreign contractors must satisfy the following tender conditions in relation to their participation in a construction investment:

- posted information on the website of the Ministry of Construction and Service of Construction (<http://www.xaydung.gov.vn/web/guest/english>);
- won a tender or having been selected for contracting and having full capability suitable to the contracted works, if bidding packages are not subjected to Vietnamese laws on tendering; and
- entered into partnership with a Vietnamese contractor or employing Vietnamese sub-contractors, unless the Vietnamese contractors are not qualified to execute any tasks of the bidding package.

### General Requirements for Issuance of Certificate of Eligibility for Construction Activities

Certificates of eligibility for construction activities must be granted upon the suitability and adequacy of an entity for the complexity of works or infrastructure to be executed, more specifically:

- a foreign constructor must present a valid business registration certificate;
- every key person must have a valid labor contract with the applicant for the issuance of certificate of eligibility; and
- with regard to particular projects (nuclear power plants, harmful chemicals manufacturers, explosive manufacturers, etc.), the key person shall participate in training courses related to the project field in addition to their required licenses.

A certificate of eligibility for construction activities is valid for five years.

## Construction Permits Post-licensing Compliance Requirements

After obtaining a construction permit, the foreign contractor must establish an executive office at the place where the project is located and register name, phone number, fax number, e-mail address, seal, bank account and tax code of the executive office. After registration of the information of the executive office, the foreign contractor must send a written notification directly or by post to the local construction department where the project is located.

Periodically on December 20 every year, the foreign contractor will send reports on contract execution status in the prescribed format to the licensing authority and the local construction department, where the project is located.

### Revocation of a Construction Permit

A foreign contractor will have their construction permit revoked in the following cases:

- the foreign contractor fails to rectify a violation when receiving more than two written requests from the relevant authorities; and
- the foreign contractor has incurred penalties for administrative violations in relation to activities mentioned in the construction permit on more than two occasions.

### Foreign Contractor Tax in Vietnam and Employees that Enter Vietnam to Work for the Project

Foreign contractors can choose one of the following tax declaration methods to declare the revenue earned from a contract signed with the investor:

- (a) deduction method;
- (b) direct method; or
- (c) hybrid method.

Employees of the foreign contractor who come to Vietnam to work are required to carry out the administrative procedures in relation to work permits, Tax Code registration, personal income tax compliance regardless of whether such employees receive a salary from the executive office.

### Conclusion

With an aim to attract more foreign contractors to undertake construction projects, in Vietnam, as well as to encourage the introduction of modern technology equipment and the management skills into Vietnam, the newly introduced amendment on licensing regulations for construction activities has reduced unnecessary overlaps and difficulties of many construction companies. Therefore a thorough research and good understanding of the legal framework with regards to construction permits is indispensable to operating effectively in Vietnam.

**Grant Thornton Vietnam.**

**The information contained herein is of a general nature, but not intended to address the circumstances of any specific individual and/or entity.**