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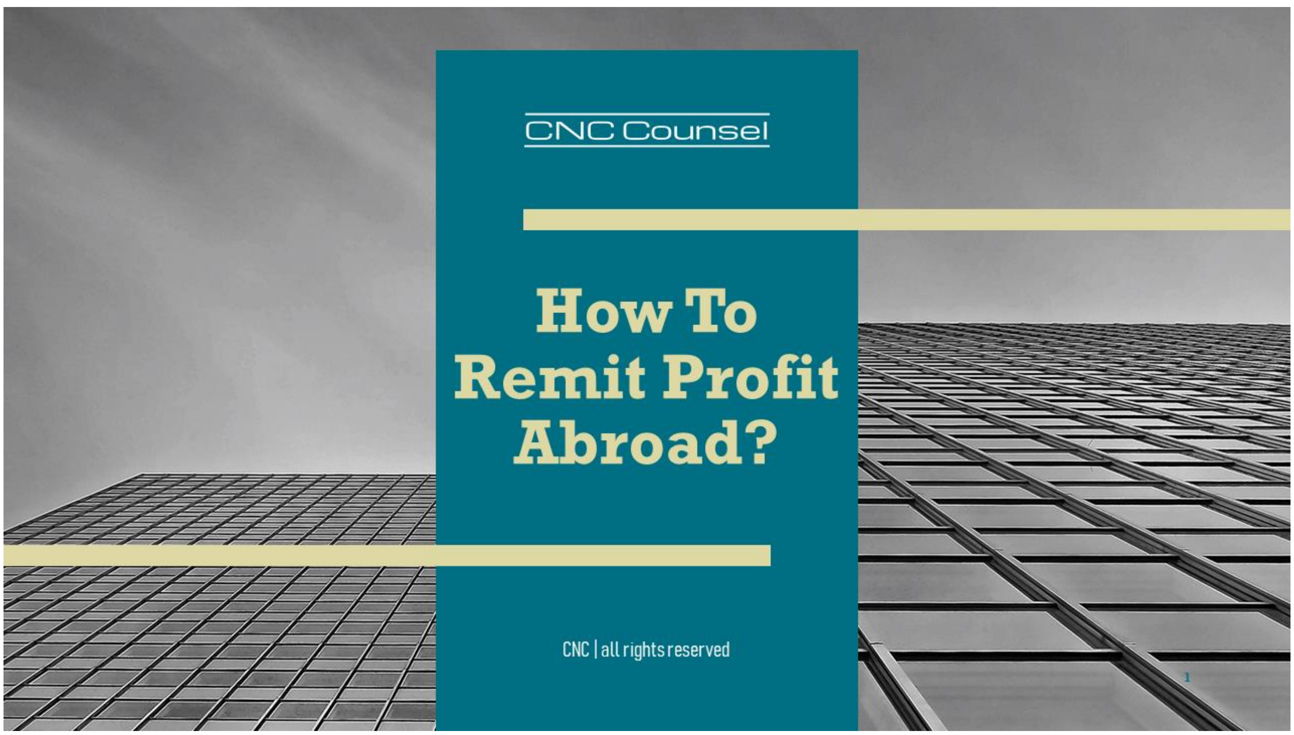

How to Remit Profits from Vietnam to One's Home Country?

The remittance of profits abroad is an essential need for foreign investors in order to perform foreign investment activities in Vietnam. In order to transfer profit abroad, investors need to satisfy the conditions and procedures prescribed by law and relevant regulations. Unfortunately, these requirements are not easy to achieve and, in some cases, costly and time consuming. This article will bring investors a comprehensive picture of issues related to the remittance of profits from Vietnam to abroad.

1. Interval remittance of profits abroad

The interval remittance of profit abroad greatly depends on how the investor's business operates in Vietnam. Under normal circumstances, remittance of profit abroad can be categorised as followed:

1.1. Annual profits remittance abroad

This annual profit remittance from abroad is applicable upon the expiry of the fiscal year. In particular, foreign investors can annually remit from abroad the profits that they have earned from direct investment in Vietnam, however their enterprises must have fulfilled their financial obligations towards competent authorities, including the submission of an audited financial statement and a declaration of the corporate income tax (CIT) to the local tax office/authority.

1.2. Profits remittance abroad upon ceasing of direct investment in Vietnam

This one-time profit remittance from abroad is applicable when the investors cease their investment activities in Vietnam. To do so, their enterprises must have fulfilled their financial obligations to competent authorities, including the submission of audited financial statements and a declaration of the CIT to the local tax office/authority.

Due to the specificity in nature of remittance from abroad, Vietnamese law further requires that prior to remittance of any such profit abroad, either the foreign investors and/or its enterprises, must have successfully fulfilled their obligations under Law on Tax Administration.

2. Conditions for the remittance of profits abroad

As indicated at item 1 above, investors shall only be allowed to remit the profits in which they have legally earned through their enterprises after successfully receiving evidence of tax clearance issued by the department of tax subdivision certifying that all taxes due from their respective business (enterprise) up to the end of the fiscal year have been paid.

Having said that, the condition precedent for any of such remittance of profit from abroad is to prove that the alleged profit is indeed the outstanding amount between revenue and any accumulated losses up to the present time.

In other words, a single profit generated during any fiscal year shall not guarantee its successful remittance if the financial statement indicates any remaining deficit from previous years. This situation will prevent investors from being entitled to make any remittance of profit abroad.

3. How Much Should Investors be entitled to remit profit abroad

If eligible, investors should be able to remit all profit abroad provided that they genuinely reflect those profits remittance in a transparent document, showing:

In case of annual profit remittance abroad, the balancing sheet between

(a) Profit that investors are entitled to receive in the current fiscal year

Plus (+)

(b) Other profit proportion such as profits that have not been remitted from previous years, and

Minus (-)

(c) Any profit proportion that foreign investors have used or committed to use to reinvest in Vietnam, and

Minus (-)

(d) Any profit proportion that foreign investors have used to pay for expenditure items for production and business activities or for foreign investors' personal demands in Vietnam.

Likewise, in the case of foreign investors ceasing to do business in Vietnam, the balancing sheet between

(a) Total profits (if any) earned/gained from the entire business operation in Vietnam,

minus (-)

(b) Any profit that have been remitted abroad;

minus (-)

(c) Any profit used for reinvestment, and

minus (-)

(d) Any expenditure incurred in Vietnam.

4. What are taxation implications when remitting profits abroad?

Except where double tax avoidance agreement (DTAAs) (if any) between Vietnam and investors' jurisdiction provides otherwise, a number of safe investment environments are implemented for the remittance of profit abroad by investors.

In principle, investors are allowed to remit profits after obliging to their financial obligations pursuant to prevailing law which provides that:

No.	Investors	Tax Percentage	Remarks
1	Foreign organisation	exempted[1]	Regardless of investment forms, including joint venture, partnership with domestic enterprises, limited liability company, joint stock company, or business cooperation contract provided that the company they invested in fulfill its CIT obligations.
2	Individual	5%[2]	In the investment form of capital contributions to limited liability companies, partnerships, cooperatives, joint-ventures, business cooperation contracts, and other forms of business
3	Individual	Exempted[3]	In the investment form of Limited liability company, or sole proprietary company, provided that the company they invested in fulfill its CIT obligations.

5. Eligible Bank Accounts to Remit Profits Abroad

Selecting an eligible bank account to remit profit abroad becomes uncertain as it depends on a wide variety of factors, including:

5.1. The form of the investment (whether it is a direct investment[4] or indirect investment[5]);

[1] Decree No. 218/2013/ND-CP, article 4.6.

[2] Circular No. 92/2015/TT-BTC, article 11.6

[3] Circular No. 92/2015/TT-BTC, article 11.6

[4] Mean: capital investment and participation in managing investment activities.

[5] Mean: through the purchase of shares, share certificates, bonds, other valuable papers a securities investment fund

5.2. The presentation of the investment certificate (whether or not an investment registration certificate ("IRC") or the like was properly obtained by the investors);

5.3. The financial stream of the investment project (whether or not the investment project was actually financed by an account registered at a foreign bank or it was funded in Vietnam by the investor.)

The introductions of Circular 05/2014/TT-NHNN dated March 12, 2014 (the "Circular 05/2014/TT-NHNN") and Circular 19/2014/TT-NHNN dated August 11, 2014 (the "Circular 19/2014/TT-NHNN") allows foreign investors to open at least a foreign currency account at a registered bank legally operating in Vietnam for the investment activities. Once opened, this legitimate bank account shall not only be used to record revenue and expenditure, but also be used for the remittance of profit abroad.

Furthermore, foreign investors might find it helpful to read this article regarding the various bank accounts available in order to determine which bank account is most appropriate to their current situation.

6. Procedures for remittance of profits abroad

6.1. Procedures

Remittance of profits abroad is carried out according to the following steps:

Step	Tasks Required	Description	Action by
1	Fulfillment of financial obligations	Submission of audited financial statements and a declaration of the CIT to the local tax office/authority.	Foreign-invested/owned enterprises
2	Profit allocation and remittance	Determine whether or not net profit (if any) shall be allocated to each shareholder/member; if so how much and what type of profit is to be allocated.	Shareholders/members of the foreign-invested/owned enterprises
3	Notification of the profit remittance to competent authorities	A 7 day's prior notice of profit remittance should be served to the local tax office/authority	Either foreign investors or the foreign-invested/owned

and through other intermediary financial institutions and whereby the investor does not participate directly in the management of the investment activity.

Step	Tasks Required	Description	Action by
			enterprises duly authorised representative
4	Remittance	Legitimate profit in Vietnam Dong currency shall be converted to delegated foreign currency at a registered credit institution (e.g. a commercial bank). The profit remittance shall be completed within 30 working days from the date of conversion.	The credit institution and the foreign investors or its authorised representative.

6.2. Documents:

In order to successfully remit profits abroad, investors are advised to prepare a complete set of documents which include:

(a) Evidence of legitimate source of money (profit):

(i) the Board of Directors' Minutes of Meeting or the Members' Council Minutes of Meeting;

(ii) Resolution/Determination of the profit allocation or similar document approving such remittance of profit abroad;

(b) Evidence of fulfillment of financial obligations:

(i) a Statement of Audited Financial Statements;

(ii) the declaration of CIT, Personal Income Tax Statement.

CONTACT US

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