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## Obtaining a Foreign Construction Contractor License. A Step – By Step Guide

### The Introduction

Foreign contractors, being in form of any legal nature (enterprise or individual), are permitted to conduct construction activities in Vietnam, only upon obtaining a foreign construction contractor license from a Vietnamese regulatory body.

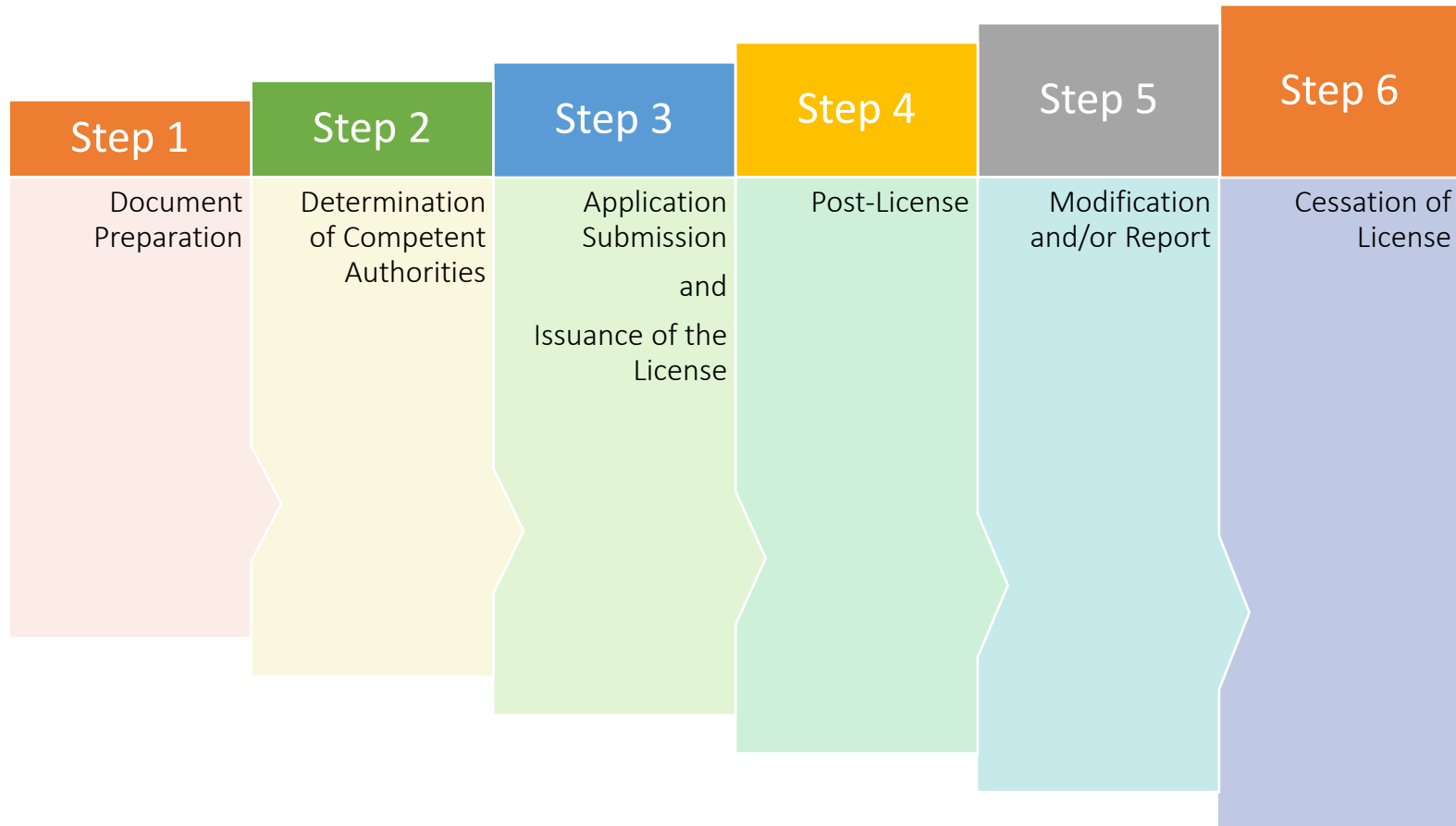
#### 1. Construction Activities Requiring a Foreign Construction License

Construction activities that require foreign contractors to have a foreign construction license to carry out construction activities include:

1	formulation of construction planning
2	formulation of a construction investment project
3	construction survey
4	construction design
5	construction
6	construction supervision
7	construction project management
8	selection of contractors
9	pre-acceptance test
10	transfer of the work for exploitation or use;
11	warranties and maintenance
12	supply of technological materials and equipment accompanying technical services related to construction work and
13	other activities related to its construction

## 2. Procedures

Obtaining a foreign construction license requires several steps and procedures to be followed and/or adhered to by foreign contractors, including:



*Procedures for foreign construction contractors to obtain licenses*

## 2.1. Document Preparation

### 2.1.1. Document Checklist

An application must be sufficiently completed prior to the foreign construction contractors are considered for the license. The following documents must be thorough and complete, viz:

#### Applicable documents both for individual or enterprise contractor

1	Construction License Application
2	Evidence of Successful Tenderer(s) Contract Award
3	Incorporation License and/or Practical Certificate
4	Project Legal Documents

#### Additional documents required pertaining to enterprises

5	Evidence of Experience and 3-year Audited Financial Statement
6	Evidence of Joint-venture Contract with a Vietnamese Contractor or a Vietnamese Sub-contractor
7	Power of Attorney for Non-legal Representatives of the Contractor.

### 2.1.2. Requirements for the Document Preparation

Application must be prepared in Vietnamese.

The certificate of incorporation, certificate of business registration - or the like - of the foreign contractor is required to be legalized/notarized at the consular level.

Other documents NOT prepared in Vietnamese, must be translated to Vietnamese and subsequently legalized/notarized and authenticated.

### 2.1.3. Exceptions

Foreign construction contractor license applications submitted in the same year by the same applicant do not need to include: (i) evidence of experience and 3-year audited financial statements; and (ii) evidence of a joint-venture contract with a Vietnamese contractor or sub-contractor.

## 2.2. Determination of the competent authorities

Depending on the grade/scale of the project, competent authorities are classified into two categories:

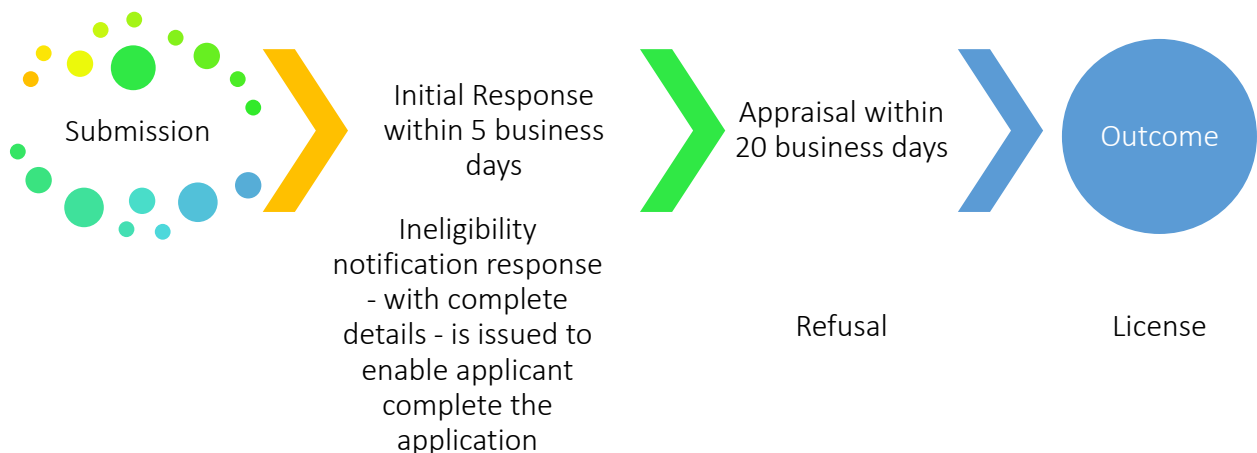
### Ministry of Construction

- Grade A projects
- Projects developed throughout 2 or more provinces

### Department of Construction

- Grade B projects
- Grade C projects

## 2.3. Submission of the Application and License<sup>1</sup> Conferment



## 2.4. Post-Foreign Construction License

There are three vitally important post-license activities that are required to be completed by the foreign construction contractors following conferment of the Foreign Construction License, and include:

<sup>1</sup> This procedure is applicable to both issuance of the license or modification to the license.



### 2.4.1. Executive Office Placement

In principle, an Executive Office, at the place where the Project is being constructed, shall be established by the foreign contractors following conferment of the foreign construction contractors' licenses. Determination of an appropriate location for the Executive Office, however, largely depends on the nature of construction activities and the area within which the construction activities are implemented.

In particular, Executive Office to registration must be:

at the place where the project owner(s) is/are headquartered

- formulation of construction planning and/or investment projects
- construction survey and/or design

at the place where the project is being constructed

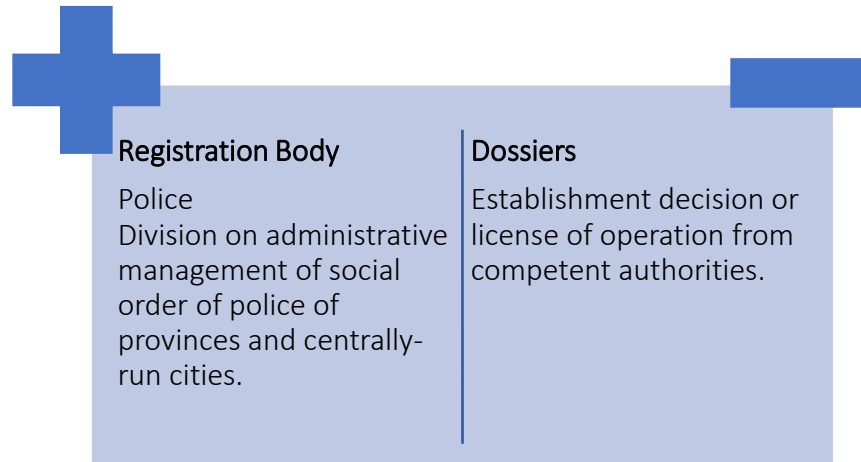
- construction and supervision of works involving multiple provinces

Determination of the place where the Executive Office will be established

### 2.4.2. Registration of the Executive Office

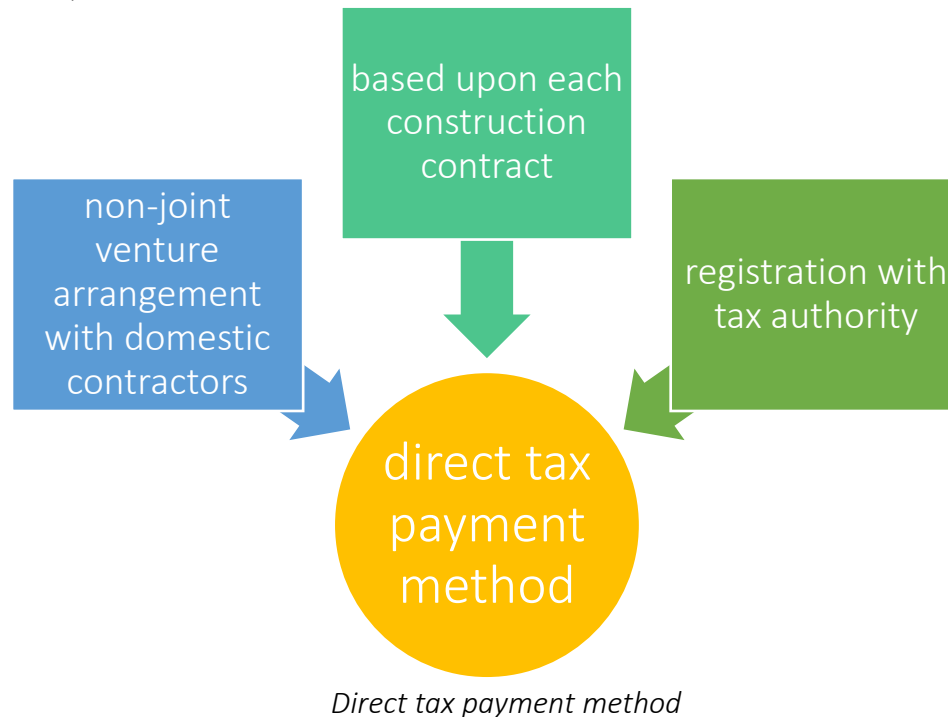
Registration of the Executive Office is the registration of the contractor's demographic information - name, phone number, fax number, e-mail address, seal, bank account, and tax code whereby the seal and tax code registrations are the two most important procedures.

## Seal Registration<sup>2</sup>

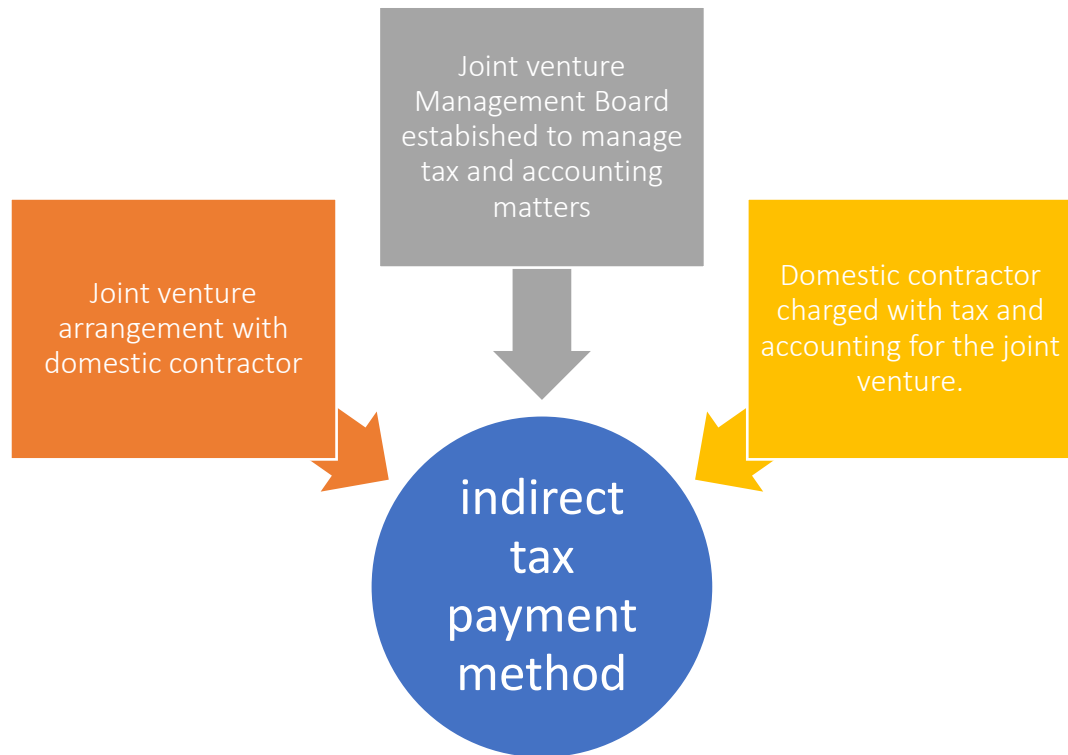


## Tax code registration

The registration method of the tax code for foreign construction contractors depends on how the foreign construction contractors will perform their construction activities in Vietnam. In fact, the registration of the tax code can be completed through two of the following mechanisms, viz:



<sup>2</sup> Decree No. 99/2016/ND-CP on management and use of seals, article 13.11



*Indirect tax payment method*

### Tax Code Registration Application

Originating from the foreign contractors, a tax code registration application consists of and must include:

- A photo copy of the foreign contractor's license
- formal tax registration forms
- declaration of the use for subcontractors
- executed (signed and stamped) bank account declaration form(s)

All of which must be submitted to the Department of Tax Division<sup>3</sup>.

### 2.4.3. Notice of the Executive Office

After registering information pertaining to the Executive Office, the foreign contractors must submit a written notification, directly or by post, to the Department of Construction in the

<sup>3</sup> Circular No. 95/2016/TT-BTC on guidelines for tax registration, Article 7.3



area where the Executive office is located, the construction authority affiliated with the Department of Construction, and relevant agencies.

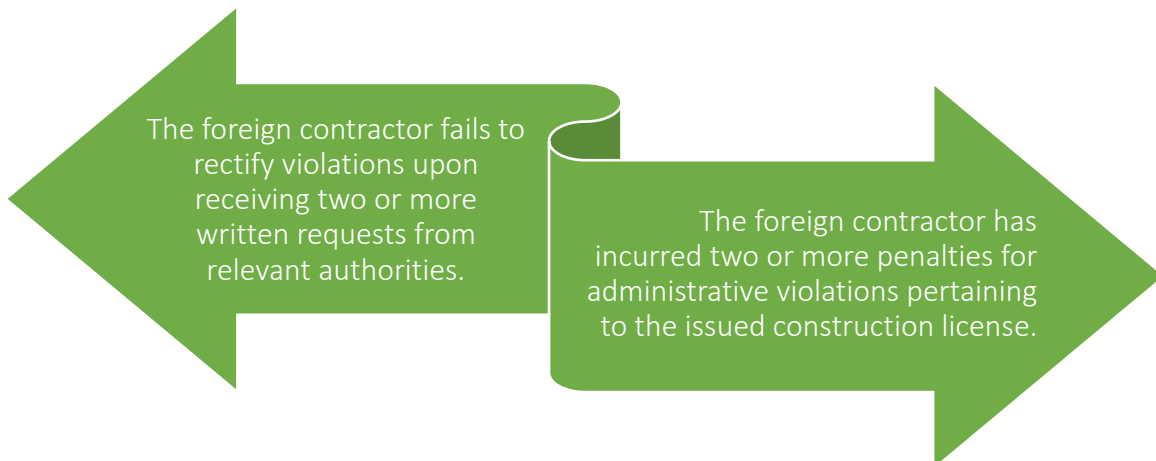
Any change in the Executive Office requires submission of notification to the relevant authorities using form No. 11 annexed to Circular No. 14/2016/TT-BTC.

## 2.5. Reporting regulations

Before December 10, and promptly after completion of the Works ALL foreign contractors must submit a report of contract execution using form No. 9 annexed to Circular No. 14/2016/TT- BXD, to the issuing agency and the Department of Construction in the area where the project is executed.

## 2.6. Revocation of the construction license

Foreign construction contractors licenses are subject to revocation upon initial occurrence of any of the following <sup>4</sup>:



### How Can We Help?

Contact us today via [contact@cncounsel.com](mailto:contact@cncounsel.com) or (+84-28) 6276 9900 to discuss foreign construction licensing from a Vietnamese regulatory body to conduct construction activities efficiently and effectively with peace of mind.

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<sup>4</sup> Decree No. 100/2018/ND-CP, article 1.39

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