

PANORAMIC

# PRIVATE M&A

Vietnam



LEXOLOGY

# Private M&A

Contributing Editors

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**Generated on: September 17, 2025**

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## STRUCTURE AND PROCESS, LEGAL REGULATION AND CONSENTS

### Structure

How are acquisitions and disposals of privately owned companies, businesses or assets structured in your jurisdiction? What might a typical transaction process involve and how long does it usually take?

In Vietnam, acquisitions and disposals of privately owned companies, businesses or assets are commonly structured into capital or share transfers or asset transfers, including business transfers. Vietnamese laws also regulate the reorganisation of an enterprise by way of merger, consolidation, division or separation.

In a capital or share transfer, the buyer becomes the new owner of the target company. There are no changes to the company's assets, liabilities, business contracts, licences or employment relationships – all of which remain with the target company. Accordingly, one key advantage is that the buyer can acquire and operate the target company with minimal disruption upon completion of the transfer. However, the buyer may be reluctant to proceed with a capital or share transfer, as they will also inherit all historical liabilities of the target company, including contingent liabilities that may be unknown at the time of the transaction.

In an asset transfer, the buyer can agree with the seller on the businesses, assets and liabilities to be transferred. Liabilities that are not specifically assumed by the buyer are generally retained by the seller. A key disadvantage of this structure is that, in most cases, the buyer cannot inherit the target company's licences and must instead obtain new ones. Some of these licences may be subject to stringent requirements and lengthy approval processes. Additionally, the transfer of employees will require formulation of a labour usage plan, with consultation of the employee representative organisation, that must be complied with by the seller and buyer.

The transaction process usually starts with the execution of a non-disclosure agreement, a non-binding letter of intent or a memorandum of understanding. Then, due diligence exercises on the target company or asset are conducted. During or after the due diligence exercises, the parties negotiate and sign the definitive agreements. After that, the parties implement the conditions precedent, including but not limited to obtaining third-party consents and regulatory approvals, such as the merger filing and M&A approval, before closing the transaction.

The time frame for the transaction can generally range from three months to a year. This depends on the parties' timing, the business of the target company, the complexity of the transaction and the conditions for closing, such as obtaining regulatory approvals.

**Law stated - 12 August 2025**

### Legal regulation

Which laws regulate private acquisitions and disposals in your jurisdiction? Must the acquisition of shares in a company, a business or assets be governed by local law?

There are several laws and regulations governing private acquisitions and disposals, including:

- Investment Law No. 61/2020/QH14 issued by the National Assembly on 17 June 2020 (as amended in 2020, 2022, 2023, 2024 and 2025) and Enterprise Law No. 59/2020/QH14 issued by the National Assembly on 17 June 2020 (as amended in 2022 and 2025). These laws set out the general legal framework, conditional sectors and investment and enterprise procedures for private acquisitions and disposals.
- Competition Law No. 23/2018/QH14 issued by the National Assembly on 12 June 2018 (as amended in 2025). Under this law, certain transactions will require merger control filing before proceeding.
- Foreign Exchange Control Ordinance No. 28/2005/PL-UBTVQH11 issued by the Standing Committee of the National Assembly on 13 December 2005 (as amended in 2013).
- Vietnam's investment treaties, including the WTO Schedule of Specific Commitments on Services. These set out the restrictions and conditions for foreign investment in various specific sectors in Vietnam.
- Other regulations applicable to special sectors, such as banking and finance. These sectors are highly regulated by the relevant authorities with their own regulatory regimes.

For contracts in which at least one party is a foreign investor or an economic organisation having foreign-invested capital as prescribed by the law, the parties may agree in the contract on the application of foreign law or international investment practices. However, there are specific exceptions where the choice of foreign law is not permitted, such as in agreements related to real estate and employment.

**Law stated - 12 August 2025**

### Legal title

**What legal title to shares in a company, a business or assets does a buyer acquire? Is this legal title prescribed by law or can the level of assurance be negotiated by a buyer? Does legal title to shares in a company, a business or assets transfer automatically by operation of law? Is there a difference between legal and beneficial title?**

In Vietnam, legal title to shares, businesses or assets is primarily governed by statutory law. The procedures and requirements for title transfer are generally mandatory and must be complied with. While the process for acquiring legal title is prescribed by law, the level of assurance regarding the validity and enforceability of the title can be negotiated. Buyers often seek additional contractual protections, such as warranties, representations and indemnities from the seller regarding the title, absence of encumbrances and compliance with legal procedures. These contractual terms provide additional assurance but do not replace the legal requirements for title transfer.

In the case of shares in a company, legal title is generally transferred to the buyer upon completion of required regulatory approvals (eg, amendments to the enterprise registration

contents) and/or internal corporate procedures, such as updating the shareholder register. The process is governed by the Enterprise Law and related regulations, which prescribe the conditions for a valid transfer. Upon satisfaction of these conditions, the buyer acquires full legal title to the shares.

For acquisitions involving businesses or assets, legal title is transferred in accordance with the nature of the asset and applicable laws. Business transfers may require the registration of an investment project and real estate transfers with the relevant authorities, and title is recognised upon completion of these procedures. For assets subject to statutory ownership registration such as land use rights, buildings or vehicles, the legal title is transferred upon registration of changes in ownership with the competent government agency (eg, the Land Registration Office for land use rights). Other assets may be transferred upon execution of definitive agreements and fulfilment of agreed conditions.

Generally, the transfer of legal title to shares, businesses or assets does not occur automatically by operation of law in the context of a voluntary transaction (such as a sale or purchase). Instead, the transfer of legal title generally requires the fulfilment of specific statutory procedures and formalities, which must be actively completed by the parties involved.

Vietnam primarily recognises the legal title, such as the shareholders or owners of records. The concept of beneficial title is regulated in some specific contexts such as anti-money laundering, merger filing or regulatory enterprise declaration where information on the beneficial owners is collected by regulatory authorities.

**Law stated - 12 August 2025**

### **Multiple sellers**

**Specifically in relation to the acquisition or disposal of shares in a company, where there are multiple sellers, must everyone agree to sell for the buyer to acquire all shares? If not, how can minority sellers that refuse to sell be squeezed out or dragged along by a buyer?**

It is essential for every shareholder to agree to sell their shares for the buyer to acquire all the shares. There are no squeeze-out or drag-out mechanisms under law that force minority shareholders to sell. Typically, the majority shareholder would have put into place contractual mechanisms to facilitate a sale to a potential buyer.

**Law stated - 12 August 2025**

### **Exclusion of assets or liabilities**

**Specifically in relation to the acquisition or disposal of a business, are there any assets or liabilities that cannot be excluded from the transaction by agreement between the parties? Are there any consents commonly required to be obtained or notifications to be made in order to effect the transfer of assets or liabilities in a business transfer?**



The parties generally have the flexibility to agree on whether to include or exclude particular assets or liabilities. In cases where liabilities are not excluded, the buyer may seek protection contractually by seeking indemnification from the seller.

There are other consents and notifications that are typically required to effect the transfer of assets or liabilities in a business or asset transfer:

- Unless otherwise agreed by the parties, a party must obtain the consent of the counterparty to assign or transfer its rights in a contract and is only required to notify the counterparty of the same.
- On the other hand, an obligor may transfer its obligation to a subrogee of the obligor with the consent of the obligee, except where the law provides that the obligation may not be transferred.
- Moreover, the consent of the creditor may also be required for the assignment or transfer of the relevant debt.

**Law stated - 12 August 2025**

### Consents

**Are there any legal, regulatory or governmental restrictions on the transfer of shares in a company, a business or assets in your jurisdiction?**

**Do transactions in particular industries require consent from specific regulators or a governmental body? Are transactions commonly subject to any public or national interest considerations?**

There are foreign investment conditions that, depending on sector, may include: a ratio of maximum foreign ownership in a company; limitations on investment method (eg, joint venture, business cooperation contract); limitations on the scope of investment activities; capacity requirements of the foreign investors and their partners; and other conditions as provided under Vietnamese law and international treaties to which Vietnam is a party.

Moreover, the transfer of capital or shares in a company, a business or assets may be subject to clearance of merger control filing and/or M&A approval, if triggered. The transfer in some industries such as banking, securities and finance may require approval or consent from specialised regulators such as the State Bank of Vietnam and Ministry of Finance.

Additionally, foreign investment in certain areas that are subject to consideration of national defence and security under the law will be subject to the opinion of the Ministry of Public Security and Ministry of Defence.

**Law stated - 12 August 2025**

### Consents

**Are any other third-party consents commonly required?**

By law, a transfer of capital of a limited liability company with two or more members will be subject to pre-emptive rights of the other members of the company. On the other hand, for a joint-stock company, the consent of shareholders is only required for a transfer by a founding

shareholder to another investor not being a founding shareholder within the first three years from the establishment date of the company.

In addition, some business contracts of the target company, especially bank loan agreements, might contain a change-of-control clause, which requires consent of the counterparty to effect a share or business transfer.

Internal corporate approvals are also required in case of large-value transactions such as transfers worth at least 50 per cent (applicable to a limited liability company) or 35 per cent (applicable to a joint-stock company) of the total assets recorded in the latest financial statements of the company, unless otherwise provided in the company's charter.

**Law stated - 12 August 2025**

### **Regulatory filings**

**Must regulatory filings be made or registration (or other official) fees paid to acquire shares in a company, a business or assets in your jurisdiction?**

Generally, no registration fees (other than some nominal fees) are required to be paid to complete an acquisition.

The Competition Law requires merger control filing when certain thresholds are met. The preliminary assessment review takes 30 days from confirmation of a due and complete submission. An official assessment may take up to 150 days. Transactions cannot be implemented without clearance by the Vietnam Competition Commission. Additionally, transfer of capital or shares by a foreign investor in certain cases requires M&A approval as well as registration with the regulators to record the transfer. In the case of a business or asset transfer, the filings required to effect the transfer vary, depending on the type of transferred business or assets.

**Law stated - 12 August 2025**

## **ADVISERS, NEGOTIATION AND DOCUMENTATION**

### **Appointed advisers**

**In addition to external lawyers, which advisers might a buyer or a seller customarily appoint to assist with a transaction? Are there any typical terms of appointment of such advisers?**

In addition to external lawyers, buyers and sellers customarily appoint tax and financial advisers to assist with transactions. Buyers may also engage technical advisers to assist, depending on the sector of the target company. The engagement letters for professional advisers usually include, among other things, the scope of work, fees and payment, confidentiality obligations, early termination rights, limitation of liability and dispute resolution.

**Law stated - 12 August 2025**

### **Duty of good faith**

**Is there a duty to negotiate in good faith? Are the parties subject to any other duties when negotiating a transaction?**

One of the fundamental principles of Vietnamese law is that the parties have a duty to negotiate in good faith. In addition, the legal representative and directors of the company are under a general duty to perform their managerial duties with prudence and in the best interest of the company. There is no specific legal standard for these duties in private companies.

**Law stated - 12 August 2025**

### **Documentation**

**What documentation do buyers and sellers customarily enter into when acquiring shares or a business or assets? Are there differences between the documents used for acquiring shares as opposed to a business or assets?**

The main transaction documents in a share transfer typically include the share purchase agreement and, where applicable, a shareholders' agreement. In a business or asset transfer, the primary document is the business transfer agreement or asset transfer agreement, depending on the scope and nature of the transaction. In addition, there might be security agreements, option agreements and licensing agreements.

The forms of the share purchase agreement and asset or business transfer agreement share some similarities. However, there are some differences between them. For example, the asset or business transfer agreement includes provisions identifying the transferred assets or businesses and any excluded assets or liabilities of the seller.

**Law stated - 12 August 2025**

### **Documentation**

**Are there formalities for executing documents? Are digital signatures enforceable?**

There are generally no mandatory requirements on formalities for executing agreements. However, the agreements may be required to be in writing for licensing purposes with the regulators, which are normally executed by the legal representative or authorised representative of the company, with the corporate seal.

By law, documents signed with qualified digital signatures are deemed valid and enforceable as documents signed with handwritten signatures. However, in practice, for those agreements to be submitted to the licensing authorities, a wet ink signature is preferable.

**Law stated - 12 August 2025**

## **DUE DILIGENCE AND DISCLOSURE**

### **Scope of due diligence**

**What is the typical scope of due diligence in your jurisdiction? Do sellers usually provide due diligence reports to prospective buyers? Can buyers usually rely on due diligence reports produced for the seller?**

Legal due diligence typically covers matters of corporate and establishment, licences and permits, indebtedness and security, material contracts, investment project, real properties and other major assets, employment, and litigation. Sellers often provide vendor due diligence reports in cases where an auction process with multiple bidders is being organised. In such cases, buyers usually appoint their own counsel to review the vendor due diligence reports or to obtain insurance coverage.

**Law stated - 12 August 2025**

### **Liability for statements**

**Can a seller be liable for pre-contractual or misleading statements? Can any such liability be excluded by agreement between the parties?**

Vietnamese law imposes a general obligation on the seller to provide information that affects the other party's acceptance of the contract. Accordingly, a party violating such obligation must compensate the other party for damages and the contract may also be rendered void. However, transaction documents will typically include entire agreement clauses to exclude liability for statements made outside of the transaction documents.

**Law stated - 12 August 2025**

### **Publicly available information**

**What information is publicly available on private companies and their assets? What searches of such information might a buyer customarily carry out before entering into an agreement?**

Generally, in Vietnam, private companies are required to make public certain key information regarding their establishment and operation. This includes information about the company name, tax code, head office address, business lines, information of legal representative(s), legal status, dependent units, and annual revenue and expenditure.

In addition, joint-stock companies are subject to further disclosure requirements, including information such as their charter and financial statements.

Moreover, mortgage of movable assets can be normally searched on the portal of the National Registration Agency for Secured Transactions (NRAST). However, it is not compulsory to register the mortgage of movable assets at NRAST. Registration at NRAST merely establishes the priority of the security over other securities (ie, security perfection).

**Law stated - 12 August 2025**

### **Impact of deemed or actual knowledge**

**What impact might a buyer's actual or deemed knowledge have on claims it may seek to bring against a seller relating to a transaction?**

Vietnamese law imposes a general obligation on the seller to provide information that affects the other party's acceptance of the contract. In addition, the Civil Code has certain provisions excluding the rights to claim of the buyer in case it has actual or deemed knowledge on the matter. If the seller can prove the buyer's actual or deemed knowledge on the matter that could be documented by a disclosure letter of the seller, the buyer may not be entitled to claims against a seller relating to a transaction.

**Law stated - 12 August 2025**

## **PRICING, CONSIDERATION AND FINANCING**

### **Determining pricing**

**How is pricing customarily determined? Is the use of closing accounts or a locked-box structure more common?**

Buyers may engage financial advisers to assist with pricing. The purchase price may be a fixed amount or a base price subject to post-closing adjustments. In cases involving price adjustments, depending on the business sector and other relevant factors, acquisition transactions may utilise either closing accounts or a locked-box structure.

**Law stated - 12 August 2025**

### **Form of consideration**

**What form does consideration normally take? Is there any overriding obligation to pay multiple sellers the same consideration?**

In practice, payment for capital or shares in a company, a business or assets is typically made in cash. Share swaps are permitted only in very limited circumstances of outbound investment from Vietnam. Transactions structured as payment in kind may be treated as two separate transactions for tax purposes.

There are no specific requirements under Vietnamese law to pay multiple sellers the same consideration. However, any price that is not market price may be subject to scrutiny by tax authorities for tax avoidance.

**Law stated - 12 August 2025**

### **Earn-outs, deposits and escrows**

**Are earn-outs, deposits and escrows used?**

In Vietnam, parties may agree to use earn-outs, deposits or escrows. Implementation of these payment structures will require getting alignment with the remittance bank.

Law stated - 12 August 2025

### **Financing**

**How are acquisitions financed? How is assurance provided that financing will be available?**

Acquisition financing will depend on the deal. Buyers usually use their own funds for their acquisitions.

M&A loans or similar financing may be available, subject to the buyers' investment strategy. Assurance for the financing varies (eg, deposits or bank guarantees) and is based on the agreement between the parties.

Law stated - 12 August 2025

### **Limitations on financing structure**

**Are there any limitations that impact the financing structure? Is a seller restricted from giving financial assistance to a buyer in connection with a transaction?**

Prior to 2023, credit institutions in Vietnam were prohibited from lending for acquisitions of capital or shares in a private company. However, this prohibition has been suspended until new regulations regulate this matter. Moreover, Vietnamese law does not allow short-term foreign loans, which are loans from foreign lenders that have terms of 12 months or less, for financing M&A transactions. The restriction on using long-term foreign loans, which are loans from foreign lenders that have terms of more than 12 months, is less clearly defined under current regulations. However, for residential housing projects, foreign loans are not a permitted source of capital mobilisation.

There is no specific restriction on the seller giving financial assistance to a buyer in connection with a transaction.

Law stated - 12 August 2025

## **CONDITIONS, PRE-CLOSING COVENANTS AND TERMINATION RIGHTS**

### **Closing conditions**

**Are transactions normally subject to closing conditions? Describe those closing conditions that are customarily acceptable to a seller and any other conditions a buyer may seek to include in the agreement.**

In M&A transactions, closing conditions are commonly stipulated as prerequisites that must be satisfied (or waived) before the transactions can be completed.

From the seller's perspective, they would generally agree to conditions that are essential to effectuate the transaction and ensure the target company continues its business operations in the ordinary course and on arm's-length terms. These typically include:

- the accuracy of the seller's representations and warranties;
- issuance of necessary corporate approvals;
- obtainment of regulatory consents and approvals;
- compliance with pre-closing covenants; and
- absence of any material adverse change.

Conversely, the buyer normally seeks to include additional closing conditions into the definitive agreements to mitigate risks, enhance deal certainty and address any material issues that may arise during the transaction process. These typically include:

- the buyer's satisfaction with the completion of due diligence (such as legal due diligence and financial due diligence) and the seller's rectification of identified issues;
- obtainment of required third-party consents;
- amendment to corporate documents to register the buyer as a shareholder and appoint management positions designated by the buyer; and
- the seller's fulfilment of applicable tax obligations arising from the transaction.

**Law stated - 12 August 2025**

### **Closing conditions**

**What typical obligations are placed on a buyer or a seller to satisfy closing conditions? Does the strength of these obligations customarily vary depending on the subject matter of the condition?**

There are some obligations placed on both the buyer and the seller. Particularly, both parties will need to cooperate during the implementation of the closing conditions and commit to not take any action that would be likely to prevent or hinder the satisfaction of the closing conditions.

With that being said, the obligations are more heavily imposed on the seller, as the seller is usually obliged to take the lead and fulfil relevant closing conditions. To illustrate, for obtaining regulatory approvals such as capital acquisition approval, the seller is typically responsible for implementing the statutory procedures to obtain these approvals, from preparing and submitting the application to obtaining the results, while the buyer is expected to support this process by providing its information and documents. However, the allocation of responsibilities may vary depending on the agreement between the parties as well as the nature and importance of the relevant condition. For instance, with respect to the antitrust approval, it is more common for the buyer to take the lead in managing the application process, while the seller provides the necessary cooperation and information to facilitate the submission.

**Law stated - 12 August 2025**

### **Pre-closing covenants**

## Are pre-closing covenants normally agreed by parties? If so, what is the usual scope of those covenants and the remedy for any breach?

The pre-closing covenants are normally agreed by the parties in M&A transactions to ensure normal business operation and mitigate any material adverse change to the target company or its assets from the execution of the definitive agreements to the transaction closing.

The usual scope typically includes the seller's covenants to:

- operate the business in its ordinary course, safeguarding the target company's operations, assets, interests and reputation;
- not conduct any material adverse changes or undertake any restructuring to the target company unless there is prior written consent of the buyer;
- not change the charter capital of the target company or create any encumbrances or limitations over the transferred shares; and
- not engage in any discussion or negotiation with third parties involving similar transactions.

A breach of these pre-closing covenants may entitle the buyer to terminate the definitive agreements and trigger the seller's indemnification obligations. In addition, subject to agreements between the parties, the seller may also be obliged to return any deposit or advance payments made by the buyer together with accrued interests.

**Law stated - 12 August 2025**

## Termination rights

### Can the parties typically terminate the transaction after signing? If so, in what circumstances?

The parties can typically terminate the transaction after signing but prior to closing. The common termination events include:

- mutual agreement between the parties;
- failure to fulfil all closing conditions on or prior to the long-stop date;
- breach of any material pre-closing covenants;
- breach of any material representations and warranties;
- occurrence of a material adverse change; or
- existence of any law that prohibits either party from consummating the transaction.

**Law stated - 12 August 2025**

## Termination rights

### Are break-up fees and reverse break-up fees common in your jurisdiction? If so, what are the typical terms? Are there any applicable restrictions on paying break-up fees?



Both break-up fees (payable by the seller) and reverse break-up fees (payable by the buyer) are fairly common in larger transactions in Vietnam. Typically, the parties will pre-agree on a fixed amount or a percentage of the transaction value, which becomes payable by a party upon the occurrence of certain trigger events, such as a breach of exclusivity provision or termination of the transaction due to that party's default. However, the concept of such pre-agreed break-up fees is not expressly recognised under Vietnamese law. Therefore, its enforcement varies on a case-by-case basis and is subject to certain elements (such as whether the dispute settlement forum interprets the break-up fee as a penalty or compensation under Vietnamese law).

Law stated - 12 August 2025

## REPRESENTATIONS, WARRANTIES, INDEMNITIES AND POST-CLOSING COVENANTS

### Scope of representations, warranties and indemnities

Does a seller typically give representations, warranties and indemnities to a buyer? If so, what is the usual scope of those representations, warranties and indemnities? Are there legal distinctions between representations, warranties and indemnities?

In M&A transactions, it is common for the seller to provide the buyer with representations, warranties and indemnities.

Representations and warranties refer to statements of fact or assurances that certain facts or conditions (whether past, present or ongoing) are true, complete and accurate. The usual scope of the representations and warranties remains subject to the specific type of M&A transaction, and generally covers a broad range of matters, including:

- the seller's existence, authority and capacity to enter into the transaction;
- the seller's ownership of shares;
- the target company's incorporation, capital structure and good standing;
- the target company's business operations, assets, financial condition and liabilities;
- the target company's compliance with applicable laws and regulations;
- the validity of the target company's licenses and permits;
- ongoing litigation and disputes involving the seller and the target company;
- anti-corruption and anti-money laundering compliance; and
- any other issues that may be identified during the due diligence process.

On the other hand, 'indemnities' is a separate concept whereby a party (the breaching party) undertakes to compensate or reimburse the other party (the non-breaching party) for losses, damages and liabilities incurred by the other party or covered person (eg, director, employee) due to breaches or non-compliance by the breaching party or its controlled persons.

Common indemnified events include breach of contractual obligations (such as representations and warranties, or covenants), third-party claims, administrative penalties and, in the case of the seller, any breaches of law by the target company prior to the closing,

or events that have occurred in respect of the target company prior to the closing. In Vietnam, the indemnified losses usually include actual and direct losses.

**Law stated - 12 August 2025**

### **Limitations on liability**

#### **What are the customary limitations on a seller's liability under a sale and purchase agreement?**

It is common for the seller to limit its liability in several circumstances. The customary limitations usually include time limits, maximum liability, de minimis claims (minimum aggregate claims) and disclosure. In particular:

- **Time limits:** the time limits for the seller's liability may vary depending on the specific type of claim. For fundamental claims (eg, warranties on the seller's ownership over transferred shares), there is no time limit to make a claim, while for general warranties, the typical survival period for the claim ranges from 12 months to 24 months. In addition, the time limits may also be subject to statutory limits, especially for tax warranties, which may reach up to 10 years post-closing.
- **Maximum liability:** the maximum liability will also be subject to the specific type of claim, and usually does not exceed 100 per cent of the purchase price paid by the buyer.
- **De minimis claims (minimum aggregate claims):** the seller often tries to negotiate a minimum amount for a single claim or series of claims (the de minimis threshold) and the minimum aggregate threshold of all possible claims that the seller would be required to indemnify the buyer. To illustrate, if a single claim made by the buyer is lower than the de minimis threshold, such claim can be ignored. If the de minimis threshold per claim is met, such claim can be counted toward the aggregate claims until it reaches the minimum aggregate threshold for indemnification purposes.
- **Disclosure:** the seller's liability can be carved out if specific issues have been properly and fairly disclosed by the seller to the buyer under a disclosure letter.

**Law stated - 12 August 2025**

### **Transaction insurance**

#### **Is transaction insurance in respect of representation, warranty and indemnity claims common in your jurisdiction? If so, does a buyer or a seller customarily put the insurance in place and what are the customary terms?**

Transaction insurance in respect of representation, warranty and indemnity claims is not yet common in Vietnam. This kind of insurance is usually used in cross-border M&A transactions by the offshore buyer, which adds protection to the buyer from foreign legal uncertainty. Therefore, it is most common that the buyer customarily puts the insurance in place to grant the buyer rights to directly claim from the insurer and minimise reliance on the seller.

This insurance typically sets out, among other things, specific insured events (such as breaches of representations and warranties under the definitive agreements by the seller), exclusions from the insurance policy (such as known events), policy limits, survival periods of the policy and the claim procedure.

Law stated - 12 August 2025

### **Post-closing covenants**

**Do parties typically agree to post-closing covenants? If so, what is the usual scope of such covenants?**

The seller and the buyer typically agree to post-closing covenants. The usual scope of such covenants varies depending on the specific type of M&A transaction. However, it usually includes the seller's covenants on non-competitive business, non-solicitation of customers or employees, non-disclosure of confidential information, assistance during the transition period post-closing, as well as fulfilment of all outstanding obligations (such as applicable tax derived from the transaction).

Law stated - 12 August 2025

## **TAX**

### **Transfer taxes**

**Are transfer taxes payable on the transfers of shares in a company, a business or assets? If so, what is the rate of such transfer tax and which party customarily bears the cost?**

In Vietnam, there are no separate transfer taxes payable on transfers of shares in a company, a business or assets. Instead, the transfers are subject to income tax and value-added tax depending on the type of asset and taxpayer.

Law stated - 12 August 2025

### **Corporate and other taxes**

**Are corporate taxes or other taxes payable on transactions involving the transfers of shares in a company, a business or assets? If so, what is the rate of such transfer tax and which party customarily bears the cost?**

When transferring capital or shares in a company, a business or assets, sellers will be subject to income tax at rates that vary depending on whether the seller is an individual or corporate entity and whether the seller is tax resident or not. For transfer of assets, the seller is also subject to value-added tax (VAT). Specifically:

- Personal income tax (PIT): for a Vietnamese tax resident, the transfer of capital contribution in a limited liability company is subject to a PIT rate of 20 per cent of the net gain, while the transfer of shares in a joint-stock company is subject to the tax rate of 0.1 per cent of proceeds. For a non-resident, both cases of transfer of

capital contribution in a limited liability company and shares in a joint-stock company are subject to the tax rate of 0.1 per cent of the total sales proceeds. For transfer of assets, the applicable PIT rate will be based on the type of business income. For example, transfer of real estate is subject to the PIT rate of 2 per cent of total sales proceeds.

- Corporate income tax (CIT): for both Vietnamese corporate entities and foreign corporate entities, the applicable CIT rate is 20 per cent of the net gain derived from a transfer of capital contribution in a limited liability company or shares in a joint-stock company. Under the amended Law on Corporate Income Tax that will take effect from 1 October 2025, a specific rate on the total sales proceeds will apply to transfers by foreign corporate entities of both capital contribution in a limited liability company and shares in a joint-stock company. Notably, the specific rate is not stipulated under the amended Law on Corporate Income Tax Law but will instead be provided in a decree issued by the government (as of August 2025, the current draft of the decree sets the rate at 2 per cent of the total sales proceeds).
- For transfer of assets, the applicable CIT rate is 20 per cent of net gain.

**Law stated - 12 August 2025**

## EMPLOYEES, PENSIONS AND BENEFITS

### **Transfer of employees**

**Are the employees of a target company automatically transferred when a buyer acquires the shares in the target company? Is the same true when a buyer acquires a business or assets from the target company?**

When a buyer acquires part or all of the shares in a target company that only results in the change in shareholding structure in the target company, there is no change to the direct employer of the employees. In other words, the employees remain with the target company.

For acquisition of a business or assets, there may be employee transfer subject to the agreed scope of assets to be acquired by the buyer. However, even in such case, the employees are not automatically transferred, but the transfer will need to go through the formal termination and re-employment processes in compliance with applicable labour regulations of Vietnam.

**Law stated - 12 August 2025**

### **Notification and consultation of employees**

**Are there obligations to notify or consult with employees or employee representatives in connection with an acquisition of shares in a company, a business or assets?**

For acquisition of capital or shares in a company, there are no obligations to notify or consult with employees or employee representatives.

For the acquisition of a business or assets, such notification or consultation may be required subject to the approach for the employee transfer:

- Approach 1 – Mutual termination with employees: the seller as the existing employer needs to communicate with relevant employees on its plan to terminate the employment relationship with these employees due to the transfer of its business and convince the employees to enter a new employment relationship with the buyer. Following this, the seller and the employees can negotiate and sign termination agreements to mutually terminate the existing employment. Afterwards, the employees can sign new labour contracts with the buyer as the new employer.
- Approach 2 – Employment termination due to the transfer of business or assets: if the transfer of business or assets results in termination of employment for multiple employees, the seller is obliged to formulate a labour use plan (LUP), which must be consulted with the employee representative organisation. Afterwards, the seller can terminate the employment with the affected employees in compliance with the LUP. Upon the termination of the employment relationship between the seller and the employees, the buyer can sign new labour contracts with these employees.

**Law stated - 12 August 2025**

### **Transfer of pensions and benefits**

**Do pensions and other benefits automatically transfer with the employees of a target company? Must filings be made or consent obtained relating to employee benefits where there is the acquisition of a company or business?**

For pensions, Vietnam's compulsory social insurance, managed by Vietnam Social Security, is a pay-as-you-go system: current workers' contributions fund the pensions of retirees. Upon employee transfer (via re-employment), pension rights remain intact within the state system. Other benefits (such as accrued bonus and unused annual leave) are technically required to be fulfilled by the seller as part of the termination of the employment relationship. However, in some cases, the seller and the buyer may agree with the employees to continue these benefits after the employees sign new labour contracts with the buyer, which may help facilitate the negotiation with the employees and obtain the employees' agreement to the 'termination and re-hire' process.

Vietnamese law does not impose specific filing requirements or formal consent obligations regarding the transfer of pension or employee benefit plans during the transfer of shares, businesses or assets. However, to facilitate the employee transfer negotiation, the seller will need to communicate with the employees on the transfer plan and negotiate the termination package.

**Law stated - 12 August 2025**

## **UPDATE AND TRENDS**

### **Key developments**

**What are the most significant legal, regulatory and market practice developments and trends in private M&A transactions during the past 12 months in your jurisdiction?**

Regulators are becoming more active and hands-on. For merger control filings, the Vietnam Competition Commission has increased information requests on parties seeking clearance for their M&A transactions. The licensing authorities have introduced requirements for actual purchase price, which has caused banks to restrict payments in excess of the recorded purchase price in the M&A approvals. Recently, the law also requires declaration of beneficial owners of the company to gather information of individuals, including individuals or entities holding 25 per cent or more of the voting shares in a joint-stock company, individuals owning 25 per cent or more of capital contribution or individuals having control rights.

Additionally, in the first half of 2025, the government implemented an unprecedented restructuring, which streamlined regulatory agencies and administrative units. However, during the transition period, in addition to the delay in terms of administrative procedures, there have been concerns as some regulators have taken new interpretations of the law due to changes in leadership.

**Law stated - 12 August 2025**