



Investment in Mongolia

KPMG in Mongolia

2016 Edition

CONTENTS

1	COUNTRY OUTLINE	6
1.1	Introduction	6
1.2	Geography and climate	6
1.3	History	6
1.4	Political system	7
1.5	Population, language and religion	7
1.6	Currency	8
1.7	Public holidays	8
2	BUSINESS ENVIRONMENT	10
2.1	Mongolian economy overview	10
2.2	Economic trading partners	11
	Exports	11
	Imports	11
2.3	Business culture	11
2.4	Free trade zones	12
2.5	Foreign exchange controls	12
3	INVESTMENT CLIMATE FOR FOREIGN DIRECT INVESTMENT	14
3.1	Foreign investment opportunities	14
3.2	Foreign investment legislation	14
3.3	Commencing business in Mongolia	15
	Practical considerations	15
	Registration	15
	Mergers, acquisitions and restructurings	16
	Exit strategy	16
3.4	Financing	17
3.5	Intellectual property	17
	Copyright	17
	Trademarks and trade names	17
	Patents	18
4	REPORTING, AUDITING AND THE REGULATORY ENVIRONMENT	20
4.1	Financial reporting	20
4.2	Auditing	21
4.3	Regulatory environment	21
	Competition law	21

Corporate governance	22
Land ownership and use	22
Anti-corruption law	23
Arbitration	23
5 TAXATION	25
5.1 General tax law	25
Overview	25
Rights and duties – taxpayers and tax authorities	26
Tax reporting and payments	26
Tax audits	26
Debt collection	27
5.2 Corporate tax	27
Overview of the corporate tax system	27
Taxable income	28
Losses	28
5.3 Transfer pricing	29
5.4 Double tax agreements	29
5.5 Tax incentives	29
5.6 VAT	30
Overview	30
Registration	30
VAT returns and payment	30
Zero Rated VAT application	31
Exemptions	31
VAT on Fixed Assets	31
VAT on Exploration	31
Integrated system	31
5.7 Immovable property tax	31
5.8 Excise taxes	31
5.9 Customs duty	32
Imports	32
Exports	32
5.10 Mining royalties	32
5.11 Personal income tax	32
Taxpayers	32
Tax rates	33
Exemptions	33
6 IMMIGRATION AND EMPLOYMENT	35

6.1	Immigration	35
	Visas	35
	Residence permits	35
	Work permits	35
	Fees and quotas for employing foreign workers	35
6.2	Employment regulations	36
	Labour contracts	36
	Severance pay	36
	Working hours	36
	Salary	37
	Paid vacation	37
	Maternity leave	37
6.3	Social security	37
	Rates	37
	Social security benefits	37
	APPENDIX 1: DOUBLE TAX AGREEMENTS	38
	Currently in force:	38
	APPENDIX 2: GLOSSARY	39
	CONTACT US	40

COUNTRY OUTLINE



1 COUNTRY OUTLINE

1.1 Introduction

Mongolia has recently topped lists as one of the world's fastest growing economies, holding a massive wealth of mineral resources. With an outward-looking professional business community, democratic government and rapidly improving living conditions, many international investors are turning their attention to this previously overlooked corner of Asia.

Landlocked between Russia and China, Mongolia is a country of extremes. Despite having the coldest capital city in the world¹, summer temperatures can exceed forty degrees Celsius. The climate is arid, but when it does rain, it can be torrential. Although very thinly populated, with approximately three million people in an area the size of Western Europe², city housing stock is in short supply and the cosmopolitan atmosphere of central Ulaanbaatar contrasts with the remote existences of smaller communities.

1.2 Geography and climate

Bordered on the north by Russia and on the east, south and west by China, Mongolia has a total area of one point five million square kilometers, making it the nineteenth largest country in the world and the second largest landlocked country.³ For administrative purposes, the territory is divided into three cities and twenty-one provinces (aimags). The most significant population centre is the capital Ulaanbaatar, home to approximately 1.3 million people.⁴

Mongolia is situated on a plateau far from any oceans, with average elevation of one and a half kilometers.⁵ This gives it an extreme continental climate which varies considerably across the country and between the seasons. Broadly speaking, elevation is lowest in the east of the country, rising to the Altai mountain range in the west. Mongolia's highest point is a mountain peak marking the western border between Mongolia, Russia and China. Travelling from north to south, one would go from Siberian forests and lakes, pass through open steppe grassland and mountains, and ultimately reach the Gobi desert.

The country has long cold winters and short warm summers. Winters are dry and summer rainfall rarely exceeds three hundred and eighty millimeters in the mountains and is less than fifty millimeters in the desert areas.⁶ Temperatures in Ulaanbaatar can regularly exceed thirty degrees celsius from mid-June to mid-August, but are also often below minus thirty degrees celsius in winter. Spring and autumn are unpredictable and snow can be seen in early June or late August. However, spells of warm weather also occur as early as April and as late as October.

1.3 History

The concept of the Mongolian state was founded by Genghis Khan (Chinggis Khaan) when he unified disparate nomadic tribes in 1206. By the time he died, the Mongol Empire stretched from Manchuria to the Caspian Sea. His descendants continued to rule the empire and extended the territory to create the largest land empire ever to exist. Gradually this fragmented until in the seventeenth century, the power of the Mongolian kings was weakened and became vulnerable to invasion. In 1636, Inner Mongolia came under the power of the Qing (*Manchu's*), followed by Outer Mongolia in 1691.

¹ Information Mongolia

² CIA, *World Factbook*

³ CIA, *World Factbook*

⁴ 1212.mn, *Mongolian Statistical Information Service*

⁵ National Geographic, *Mongolia Facts*

⁶ S. Chuluunkhuyag, *The Impact of Climate Change and Human Activity on Mongolian Water Resources*

When China was experiencing political turmoil in the early twentieth century, Mongolian nationalists took the opportunity to ally themselves with the Soviet Union. In 1924, Outer Mongolia formally announced full independence as the Mongolian People's Republic (MPR), the world's second Communist state. The MPR was effectively a client state of the Soviet Union, which heavily influenced internal politics. This included negative impacts such as religious purges in the 1930s and forced collectivization. However, with investment from the Soviet Union, significant infrastructure was put in place and levels of education, healthcare and the economic growth improved. Inner Mongolia remains a province of China today.

Mongolia underwent a peaceful transition to democracy, electing the first democratic parliament members in July 1990. The new constitution was established in 1992 and the first president elected in 1993.

1.4 Political system

Mongolia is a parliamentary democracy, with key positions held by the President, Prime Minister and Government Ministers. The main chamber of parliament, consisting of 76 members elected on a first-past-the-post system, is called the State Great Khural. Parliamentary elections are held every four years and presidential elections the following year.

Since the early 1990s, the main government parties have been the Mongolian People's Party (MPP) and the Democratic Party (DP). The MPP was formerly called the Mongolian People's Revolutionary Party (MPRP) and was the ruling party throughout the socialist era. The party now calling itself the MPRP is a splinter group, created after the original party changed its name in 2010.

Parliamentary election was held on 29 June 2016 and 72.1 percent of Mongolian voters participated in the election nationwide. Mongolians have sent an undeniably clear message to the former government by voting 65 members of the MPP, a massive 85 percent of the seats in the Parliament. There were fears of violence following riots that had occurred after the 2008 elections which left five people dead, but 2016 passed off peacefully and orderly. However, less than two months before the election, on 5 May 2016, the electoral law was amended to remove the party list system and return the election system back to a full majority. The public and international independent observers have criticized this last minute fundamental changes to the legislation. The law also withdrew the voting rights of an estimated 150,000 Mongolian citizens living abroad including diplomats.

The election was closely followed by the Asia-Europe Meeting 2016 (ASEM) on 15-16 of July, with over 50 heads of state gathering in the country. At the 20th anniversary of ASEM, leaders also reviewed the progress made and committed to taking ASEM forward, promoting greater connectivity and more focused cooperation between Asia and Europe⁷.

1.5 Population, language and religion

The National Statistical Office has reported that Mongolia's total population reached 3,061.6 thousand at the end of 2015.⁸ 43% of the population lives in Ulaanbaatar. The rest of the population lives in smaller towns and villages or are nomadic/semi-nomadic. Mongolians belong predominantly to the Khalkh ethnic group (eighty to 82% of the population, 2010 est.) and there is a significant Kazakh minority of approximately 3.8% of the population⁹, with a very distinct language and culture. The remaining ethnic groups are mostly quite closely related to the Khalkh.

The official language of Mongolia and first language of the vast majority of Mongolian nationals is Khalkh Mongolian (written in the Russian Cyrillic alphabet). However there are other languages and dialects spoken by minority groups, most notably in the province of Bayan-Ulgii, where the Kazakhs are in the majority, and Tuvans also form a significant group. During the socialist period, the first foreign language taught was Russian. However, English is now widely taught and often a requirement

⁷ Council of the European Union, 16 July 2016

⁸ MONTSAME "Mongolian News Agency", 18 January 2016

⁹ CIA, *Factbook*

to work for international companies. Chinese, Korean, Japanese and German are also popular languages.

It should be noted that Mongolians rarely use their family names, identifying themselves instead by a given name and a patronymic. In Mongolian, the patronymic precedes the given name and is often shown only as an initial – thus Batbold's son Tumur would be called Batboldin Tumur or B. Tumur. However, many Mongolians working in international environments now put their given name first on English language business cards (i.e. Tumur Batbold). The convention is identical for men and women, and women do not change their names on marriage.

Shamanism is the oldest religious tradition in Mongolia and was replaced by Buddhism from the sixteenth century onwards. Under Communism, all religion was suppressed and most temples and monasteries were destroyed. The majority of the population now identifies as Buddhist, with small Shamanist, Christian and Muslim minorities.

1.6 Currency

The official currency of Mongolia is the Mongolian tugrik or tögrög (MNT). During the three year period to August 2016, the exchange rate fluctuated from 1,390-2,150 MNT:USD¹¹ and 2,208-3,160 MNT:GBP.¹²

Currency is issued by the Central Bank of Mongolia, and the official daily foreign exchange rates can be found at: <https://www.mongolbank.mn/eng/dblistofficialdailyrate.aspx>

1.7 Public holidays

There are seven celebrations in Mongolia for which public holidays are observed. Holidays are generally observed on the actual date but if a holiday falls on the weekend, the government may at its discretion declare an additional day off. Similarly, where there is only one day between a public holiday and a weekend, there have been instances where a Saturday has been turned into a working day in lieu of the Monday or Friday, allowing employees to take a longer holiday. Typically, there is very short notice of such decisions, so as an employer or business visitor, one should be aware that working hours around holidays may change as little as a week prior.

Public holidays may also be granted for events such as general elections.

Figure 1: Public holidays observed in Mongolia

Public Holidays in Mongolia	
Holiday observed	Date observed
New Year's Day	1 January
Tsagaan Sar (Lunar New Year)	Three days in late January/early February
International Women's Day	8 March
Children's Day	1 June
Naadam	11 – 15 July
Chinggis Khaan's birth date	On the first day of first month of winter according to Lunisolar Calendar
Reclaimed independence and national freedom day	29 December

¹¹ XE, *Currency Chart*

¹² XE, *Currency Chart*



BUSINESS ENVIRONMENT

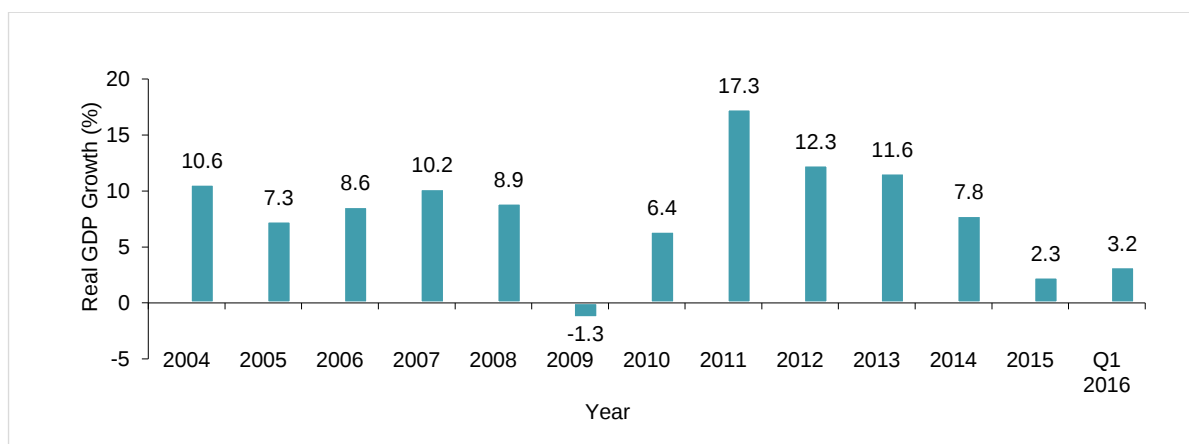


2 BUSINESS ENVIRONMENT

2.1 Mongolian economy overview

The Mongolian economy has been growing steadily since 2004, apart from the slowdown in 2009, as a result of the global financial crisis. In 2011, Mongolia had the fastest growing gross domestic product (GDP) in the world at 17.3%. GDP growth since then has been declining and stands at 3.2% in Q1 2016. Performance is attributed to poorer foreign investment confidence and uncompetitive exports, particularly from mining.

Figure 2: Mongolia's GDP growth (percentage) from 2004 – Q1 2016



Source: World Bank Data¹³

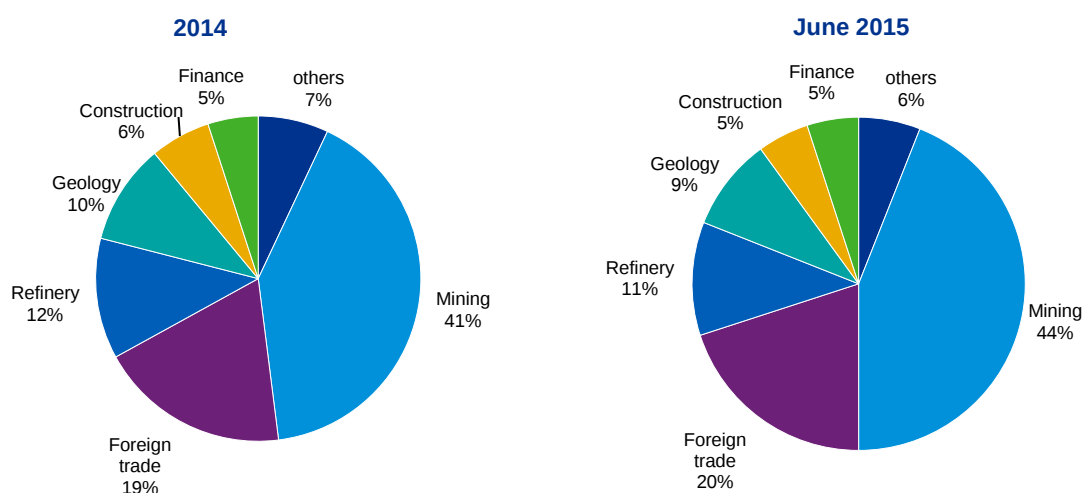
Historically, economic growth in Mongolia has been driven predominantly by the mining sector, which contributed approximately 24.7% of GDP in 2015, according to the National Registration and Statistics Office (NRSO). Wholesale and retail trade is the second largest industry contributing to 13.3% of GDP in 2015.¹⁴

Foreign investment into Mongolia has been increasing significantly up until 2011 when it reached its highest of USD 4.7 billion. However, FDI flow into Mongolia has decreased drastically since 2011. Foreign investment into Mongolia for 2015 was USD 147.9 million, the lowest in six years. Foreign direct investment (FDI) is heavily skewed towards mining.

¹³ *The World Bank, Mongolia GDP Growth 2004–2015 Data*

¹⁴ *National Registration and Statistics Office, Social and Economic Situation in Mongolia*

Figure 3: Mongolia's FDI by industry



Source: Bank of Mongolia, Monetary Policy and Research department¹⁵

2.2 Economic trading partners

Mongolia is heavily dependent on trade with its immediate neighbors, both for imports and exports.

Exports

According to the NRSO, 83.7% of the export balance for 2015 was with China alone, versus just 1.6% with Russia. This has swung considerably from the situation in 1990, when 81% of exports were to Russia and only 0.7% to China, as a result of the altered political landscape.¹⁶

Mongolia's main export commodities are; copper, coal, iron ore, crude oil and raw cashmere.

Imports

With respect to imports, over 90% of Mongolia's petroleum comes from Russia.¹⁷ Although Mongolia has oil and gas resources, it does not yet have a refinery and therefore is reliant on importing petroleum.

Overall, Mongolia's other imports are more balanced and largely consist of industrial equipment (particularly for mining), food and consumer goods. For the year 2015, 26.9% and 36.6% of the import balance was held against Russia and China respectively.¹⁸ Mongolia's other main import partners are Japan, South Korea, the USA and Germany.

2.3 Business culture

Mongolia has a very small population and business is overwhelmingly based out of Ulaanbaatar. As such, Mongolia has a small business community in which everyone knows everyone, resulting in reputation and relationships being very important.

In recent years, as more foreign companies have established offices in Mongolia and Mongolians who have studied and worked overseas have been attracted back home, international business practices have begun to have more influence and a lot of meetings and work with international partners is conducted in English. However, you should be prepared for some translation to be required, particularly when dealing with older Mongolians for whom English was not part of their early

¹⁵ Bank of Mongolia Contact Information

¹⁶ Bank of Mongolia, *Monthly Statistical Bulletin, Sept. 2015*

¹⁷ Reuters, *Mongolia's Energy Reliance on Russia, China a Key Risk*

¹⁸ National Statistical Office, *Monthly Statistical Bulletin, Dec. 2015*

education. Most companies have employees who are able to translate in meetings and professional translators can also be hired.

There is a strong demand for skilled employees with any international qualifications, experience or language skills. With significant opportunities for the better educated, as more international businesses enter the market and compete for staff, and little in the way of loyalty incentives such as pension plans, employee turnover in many businesses is high.

Dress tends to be smart and it is advisable to err on the side of being too smart rather than appearing too casual, as appearances are taken quite seriously. Punctuality is also generally expected, although attitudes vary. Meeting times may be changed at short notice. Business cards are exchanged at the start of meetings and it is a good idea to have plenty available, ideally in both English and Mongolian.

Getting to know each other informally over drinks or a meal is common practice and a good way to establish relationships. At celebrations, such as marking the conclusion of a business deal, vodka normally plays a role and you are very likely to be asked to join in with toasts. While it is appreciated if you participate fully, taking a token sip is usually acceptable.

Standard business hours in most offices are 9am–6pm Monday-Friday, with an hour for lunch. Many government offices operate from 8am-5pm.

2.4 Free trade zones

The first legislation to create free trade zones on the Mongolian border was passed in 1995, with subsequent amendments also being made. However, implementation to provide the requisite infrastructure has stalled repeatedly. In April 2012, ground was broken to begin construction on the Zamyn-Uud Free Economic Zone (by the main crossing on the Chinese border).

On 22 June 2014, Altanbulag free trade zone officially started operating on the Russian border, and there are plans for similar zones in Choir (a town on the railway line south of Ulaanbaatar) and Tsagaannuur (on the western border with Russia).

2.5 Foreign exchange controls

All business transactions between Mongolian registered entities are legislatively required to be settled in MNT. However, it is not unusual for prices to be quoted in other currencies (predominantly USD), particularly in international trade and the tourism industry.

Apart from the taxes discussed in section five of this guide, there are no restrictions on the repatriation of capital.

A high-angle, top-down photograph of three business professionals walking across a large, circular floor area. The floor is covered in a blue grid pattern, with a large, bright blue circle in the center. The three individuals, two men and one woman, are dressed in business attire and are carrying briefcases or folders. They are walking towards the bottom right of the frame. The lighting is dramatic, with strong shadows cast on the floor. The overall color palette is dominated by various shades of blue.

INVESTMENT CLIMATE FOR
FOREIGN DIRECT INVESTMENT

3 INVESTMENT CLIMATE FOR FOREIGN DIRECT INVESTMENT

3.1 Foreign investment opportunities

Foreign investment into Mongolia has fallen since its peak of USD 4.7 billion in 2011. Drastic growth between 2010 and 2012 was overwhelmingly based on mining although many other sectors also proved attractive, as demand grows for services which directly and indirectly are required to support the mining companies. Falling global coal and copper prices, unstable legislation towards foreign investment and costs of transporting coal to China, the country's largest export market, have discouraged foreign investors' interest in the country.

However, recent developments made on major mining and transport infrastructure projects are very important steps to renew investors' confidence. Progress in those infrastructure and mining mega projects, particularly Oyu Tolgoi, should increase the inflow of foreign investments and reignite economic growth.

3.2 Foreign investment legislation

Another positive step towards stable investment climate is new Investment Law of Mongolia passed on 30 October 2013. The law replaced Foreign Investment Law (1993) and Law of Foreign Investment in Business entities in Strategic Sectors (2012). It also resolved certain problems encountered by investors which arose following the legislation on strategic sector investment passed in 2012.

Since the adoption of the new Investment Law, foreign investors have been given the same rights as domestic investors, and provided with a legal framework to protect their investment. To further encourage foreign investment, the Investment Law sets out tax stabilization incentives and other non-tax incentives to promote investment in Mongolia. The new Law also aims to simplify the registration process for setting up a business which only needs to be registered with Intellectual Property and State Registration Office (IPSRO). As a result, the length of time to open a business from entry to operation is shortened by 30 days.

The Law also includes a provision for an 'Invest Mongolia Agency', which will focus on promoting, supporting, and regulating investment activities and is in charge of issuing stabilisation certificates to the investors and monitoring whether such certificate holders are operating in compliance with Mongolian laws and regulations. The applicable rates of the following taxes, fees and duties can be stabilised under stabilisation certificates for period up to 18 years, and may be extended to 27 years for qualifying projects:

- a. Corporate income tax;
- b. Customs duty;
- c. Value added tax; and
- d. Minerals royalty

The definition of a foreign investment entity in Mongolia (as defined in the Investment Law) is an entity established under the laws of Mongolia of which not less than twenty-five percent of the equity is held by a foreign investor (including Mongolian citizens permanently residing overseas). A minimum initial investment of one hundred thousand US dollars (US\$ 100,000) is required for each foreign investor to register a foreign investment entity.

3.3 Commencing business in Mongolia

Practical considerations

Business in Mongolia starts and ends in Ulaanbaatar, so any business which is serious about operating in the country needs permanent representation in the city.

Central office locations are convenient for many people, as the city centre is compact and most places are within walking distance. However, there is a corresponding cost premium and limited space available, as well as congestion in the centre having the potential to put off some commuters – though relative to many Asian cities, Ulaanbaatar's traffic is not particularly heavy. Other factors to consider are:

- Where your employees live and how they will commute to work (as public transport can be limited in some areas)
- Proximity to the airport
- Price and quality of hotel accommodation nearby
- Other amenities such as catering facilities

Most Mongolians eat at canteens for lunch, with some workplaces providing food for their employees. Likewise, some companies located out of town may provide free buses for their employees. When considering amenities and perks, it is also worth bearing in mind that many expatriates regard Mongolia as a hardship posting and anything that can be done to reduce this perception will help with recruitment and retention of valuable knowledge and experience.

Local knowledge is essential and professional business and legal advice should be a priority. Good contacts can also help you to find premises and staff as well as assist with administrative matters such as opening bank accounts. The large banks have English speaking staff in their major branches, and some branches are specifically dedicated to serving foreign private and commercial customers. Recruitment in the private sector is becoming more transparent and open to newcomers with the establishment of recruitment agencies. These can be particularly helpful when seeking Mongolians with specific experience and qualifications. However, the continuing importance of personal contacts and recommendations should not be underestimated either.

Registration

Mongolian Company Law (Company Law) defines a company as a legal entity whose capital is divided into shares, has its own separate property and has the primary purpose of making a profit. Two types of company structures are permitted under Company Law – Joint Stock Company and Limited Liability Company.

Figure 4: Key differences between the two types of company structures permitted in Mongolia

Mongolian Company Law		
	Joint Stock Company (JSC/XK)	Limited Liability Company (LLC/XXX)
Right to trade shares	Freely traded, unless otherwise agreed by its shareholders	Limited by the Company's charter
Number of shareholders	Unlimited	Maximum of 50 shareholders at foundation; unlimited thereafter
Minimum equity at registration	MNT 10 million	No minimum requirement for local company

Establishing a legal entity in Mongolia will involve the following Government offices:

- Intellectual Property and State Registration Office (IPSRO)
- Mongolian Tax Authority (MTA)
- Ministry of Finance (MOF)
- Invest Mongolia Agency (IMA)

In terms of the process, permission must first be requested from the IPSRO for the proposed company name. Once obtained, an application (along with the required supporting documentation) is submitted to IPSRO and a registration certificate is issued for the company. Upon completion of registration, the IPSRO publicly announces the establishment of the company. Finally, the company should be registered at MTA and MOF for compliance purposes.

If foreign state-owned legal entities (FSLE) holding 33 percentage or more interest in Mongolian incorporated entity operate in following sectors must go through an approval process at IMA:

- Mining;
- Banking and finance; and
- Media and telecommunications.

We note that a number of documents are required to support the application to the IMA including a business plan or feasibility study for each proposed business activity and details of investors. IMA makes decision within 45 days of the receipt of the application. In addition, a minimum start-up investment of USD one-hundred thousand is required.

Mergers, acquisitions and restructurings

Company Law recognizes that a company may be established through the reorganization of another entity, which may take the form of merger, consolidation, division, separation or transformation. We discuss the requirements for each type of restructuring below, however any such restructuring must be authorized through the approval of a resolution at a shareholders' meeting and the reorganized company must then be registered with the relevant authorities. In addition, the company must inform its creditors (and others that it does business with) of the decision within fifteen days of the reorganization resolution being adopted.

Consolidation refers to the termination of two or more companies and the transfer of the rights, obligations and liabilities of those companies to a newly established company, versus merger, which involves the termination of one company only. In either case, the consolidation or merger must be approved by an 'overwhelming majority' (sixty-six point six percent or greater) of the shareholder votes at the shareholders meeting of each company involved.

Division involves the termination of the activities of a company in order to form two or more new companies, while separation refers to the splitting off of some of the assets, rights and obligations of a company to a newly established company, without terminating the original company. Again, the approval of an overwhelming majority of shareholder votes is required in both cases.

In contrast, transformation does not strictly involve the creation of a new company, as it is the transformation of a public company to a limited liability company or vice versa. Shareholder approval (by overwhelming majority) is also required.

Exit strategy

A company may be liquidated with agreement of the shareholders or by a judgment in accordance with the Civil Code and other related legislation. Grounds for compulsory liquidation include bankruptcy and the non-existence of shareholders. With respect to voluntary liquidation, the Board of Directors must prepare a liquidation plan for the approval of the shareholders that includes the appointment of a liquidation commissioner to represent the company, settlement of debts and liabilities and distribution of any remaining assets to the shareholders. Liquidation is a complex procedure and professional advice is recommended.

3.4 Financing

Foreign invested companies are free to seek local financing, either by entering into business jointly with Mongolian investors or directly from Mongolian financial institutions.

Since Mongolia's first private bank opened in 1990, the banking and financial services industry has developed rapidly and now offers a wide choice of products. Currently, there are fourteen commercial banks, of which Khan Bank, Golomt Bank and the Trade and Development Bank dominate in terms of lending. No foreign banks are currently fully licensed in Mongolia. Commercial interest rates are high – as an example; the Khan Bank (at the time of publication) was offering interest rates in the range of 19.2% to 27.6% per annum on MNT loans to businesses, or 12% to 20.4% in USD.

Subsidiaries of non-Mongolian companies commonly receive financing from their overseas parents, either through intercompany loans or capital contributions. Clearly, tax implications should be carefully considered when planning such arrangements, as well as consideration of the thin capitalization rules which limit interest-bearing loans to three times the equity contribution for Mongolian companies.

The Mongolian Stock Exchange (MSE) established a partnership with the London Stock Exchange Group (LSEG) in 2011, and the two exchanges continue to cooperate to build in the MSE's capabilities. As of July 2016, MSE has a total of 332 member companies listed¹⁹.

3.5 Intellectual property

Mongolia is a member of the World Intellectual Property Organization. The key laws protecting Intellectual Property (IP) in Mongolia are:

- Copyright Law
- Law of Mongolia on Trade Names and Trademarks (Trade Names and Trademarks Law)
- Patent Law

The Intellectual Property Office of Mongolia (IPOM) is responsible for policy implementation.

Copyright

Copyright Law in Mongolia encompasses all creative and artistic work, including architectural designs, scientific and technical plans and models, computer programs and dictionaries. However, it does not protect official legal documents, political speeches, statistics, instructions or mathematical concepts.

The author should register their work at the IPOM to ensure copyright protection from date of creation until fifty years after the author's death. Reproduction for educational purposes, private use or public benefit is permitted, provided it is not profit-making.

Trademarks and trade names

Trademarks and trade names must be registered with the IPOM and will be protected from the date of registration under the Trade Names and Trademarks Law. Broadly, any trademark can be used as long as it is not offensive and does not closely resemble a common image, national symbol or another protected image or trademark. Trade names must be written in the Cyrillic alphabet but can be registered alongside a trade name in the Latin alphabet.

In order to register a trade name, a copy of the State registration certificate for the entity is required. On acceptance, the IPOM enters the trade name or trademark into the State register, issues a certificate and stores the application form in the database of trademarks and trade names. Certificates are valid for ten years and can subsequently be extended.

To register a trademark, an application form and ten copies of a graphical representation of the trademark is required to be submitted to the IPOM.

¹⁹ [Mongolian Stock Exchange \(MSE\)](#)

Patents

In order to be eligible for a patent, an invention must involve an “inventive step” which has technological advantages over the existing technology available as well as being industrially applicable. If granted by the IPOM, protection is valid from the date it is granted. The length of validity depends on the type of patent or certificate obtained.

Figure 5: Validity of patents

Patent Law	
Type of patent/certificate	Validity
Patent for invention	20 years
Patent for industrial design	10 years
Innovation certificate	7 years

REPORTING, AUDITING AND THE
REGULATORY ENVIRONMENT

4 REPORTING, AUDITING AND THE REGULATORY ENVIRONMENT

4.1 Financial reporting

Mongolia has had to catch up rapidly in respect of its financial reporting requirements since making the transition to the market economy. Mongolia passed its first Accounting Law in 1997, with subsequent amendments in 2001, 2003, 2005, 2006, 2011 and 2012 and a full replacement in 2015. International Financial Reporting Standards (IFRS) or IFRS for Small and Medium Enterprises (SMEs) have been theoretically adopted for all private entities, although in practice, many enterprises do not comply due to the cost and difficulty of converting.

Listed companies, companies operating in exploration or mining, and companies classified as large by the Ministry of Finance are among those required to apply IFRS in full. On 4 February 2016, the Ministry of Finance issued a regulation stating that companies with total assets greater than MNT 0.5 billion or revenues over MNT 1.5 billion would be classified as large entities required to apply full IFRS for their reporting.

It should be noted that certain other provisions within the Accounting Law may create conflicts between IFRS and other legal requirements for some companies. In particular, the Accounting Law requires that all entities registered in Mongolia maintain their accounting records in Mongolian language and currency. For some entities, particularly those operating internationally, functional currency under IFRS may not be the MNT, a scenario which should be identified and dealt with at the earliest opportunity in order to mitigate against later complications with the authorities. Theoretically, the Law does allow for a company to request permission to apply a different currency in their record-keeping; however, to date the Ministry of Finance has appeared reluctant to grant such permission. Any company concerned that this may apply to them is recommended to obtain professional advice locally.

A second requirement which deviates somewhat from IFRS is the requirement to consolidate. Under the 2015 Accounting Law, any entity with a subsidiary is required to prepare consolidated financial statements, unless it is itself included in a larger consolidation under a Mongolian parent company. Depending upon the group structure, this may differ from the requirement under IFRS and therefore should be assessed with care.

By law, the financial year is from 1 January to 31 December. Financial statements are required to be submitted to the Ministry of Finance, as outlined in Figure 6 below.

Figure 6: Financial reporting deadlines

Accounting Law		
Period	Applicable to	Submission date
Half-year ended 30 June	Companies applying IFRS	20 July
Year ended 31 December	All companies	10 February
Year ended 31 December (consolidated)	Parent companies with requirement to consolidate	1 March

Under Company Law, the financial statements required to be lodged include a balance sheet, income statement, cash flow statement, changes in equity statement, a detailed list of all conflict of interest transactions and notes to the accounts.

All the above-listed reports are now required to be submitted electronically through the Ministry of Finance's on-line system. Paper filings are still accepted if a company chooses to make them in addition to electronic submissions, but are not mandatory and cannot be used in place of an electronic version.

4.2 Auditing

The 2015 Auditing Law, effective from 1 January 2016, lists six categories of entities which require annual statutory audits:

- All entities required under the Accounting Law to apply full IFRS to their financial statements (see above)
- Entities presenting consolidated financial statements
- Entities that are being restructured, liquidated or planning to sell all their assets at auction
- Entities with foreign investment
- Not-for-profit foundations operating for the public benefit, as defined under Article 36.2 of the Civil Code
- Any other entities or organizations required to be audited under an international treaty to which Mongolia is a party

The Auditing Law requires mandatory five-yearly rotation of auditors, with a minimum three year window before the previous auditor can be re-engaged. This has been increased in the new Law from the previous three-year rotation requirement. Audit and non-audit services cannot be obtained from the same provider at the same time, and in order for a statutory audit opinion to be recognized in Mongolia, the auditing firm must hold a local audit license.

Among private enterprises, the strictest audit deadlines apply for banks, insurance companies and non-banking financial institutions (NBFIs), which must have their annual financial statements audited and published by 31 March. The Auditing Law states a deadline of 30 April for other private entities; however, interpretation advice from the Ministry of Finance to audit firms has been that in order to be consistent with the timeframe permitted for changes to tax filings, entities may instead submit unaudited financial statement by 30 April together with a 'progress letter' from the auditor stating that the auditor has been engaged and the audit is in progress. It is expected that audited financial statements will then be accepted until 31 December.

Other than the annual statutory audit, audited financial statements may also be required to comply with requirements for fundraising or restructuring activities – for example, prior to an initial public offering (IPO) or disposal of the business.

4.3 Regulatory environment

Competition law

The Competition Law of Mongolia (Competition Law) is enforced through the Authority for Fair Competition and Consumer Protection (AFCCP). Its key provisions prohibit activities by any entity involving the dissemination of false information about its own products, concealing quality deficiencies and carrying out or encouraging activities harmful to competitors.

In addition, there is a specific provision within the legislation relating to activities of 'dominant entities' which are defined as any entity or group of entities, with a market share exceeding one-third. The provision covers matters such as price manipulation, abuse of a dominant position, cartels and unfair practices against competitors.

Corporate governance

Company Law establishes the responsibilities and liabilities of governing persons of a company, who include the Board of Directors and the Executive Team. Corporate governance duties include:

- Acting in the best interests of the company
- Avoiding conflicts of interest
- Maintaining confidentiality

Governing persons can be held personally liable for damage arising from their failure for meeting these requirements.

The company charter sets out the powers of the shareholders and the Board of Directors where these are not dictated by law.

Shareholders

Shareholders have the highest governing authority of a company, by voting on resolutions at the shareholder meeting. The shareholder meeting has exclusive authority over matters including:

- Amendments to the company charter
- Company restructuring such as mergers, consolidations, divisions and liquidations
- Equity transactions
- Board of Directors appointments and terminations
- Approval of Directors' reports with respect to annual performance and financial statements
- Signing a contract with the appointed external auditor

Shareholder meetings must be held annually by the Board of Directors and within four months of the financial year end. Further, Company Law prescribes the process to be followed in organizing the meeting. Special shareholder meetings may be called for a range of circumstances and are required under certain situations, such as where the company is making significant losses or has substantial debt. Over fifty percent of the eligible voting shares must be represented for quorum to be met at a shareholder meeting. However, the company charter may set the threshold higher.

Board of Directors

The role of the Board of Directors is to govern the company between shareholders' meetings. Joint Stock companies are required to have a Board of Directors. However, limited liability companies may opt out of this requirement. Public companies and joint stock companies must have a minimum of nine members on its Board of Directors and one-third of these must be independent.

The Board has authority over matters such as:

- Company activities and policies
- Issuance of securities and authorized shares
- Appointment of the external auditor
- Preparation of the annual report and financial statements
- Appointing the executive body to conduct the daily business of the company

By default, Board of Director meetings should be held monthly, unless otherwise stated in the company charter and minutes must be kept of all meetings.

Land ownership and use

The right to own land in Mongolia is granted exclusively to citizens of Mongolia. If a piece of land is not owned by a Mongolian citizen, it is considered to be the property of the Government.

In accordance with the Law on Land, foreign business entities, organizations and nationals can use Mongolian land for a specific purpose, time and condition. A fee is payable for the use of Mongolian

land which is determined and approved by the Government based on several factors, including size and location of the land. Special legislative provisions exist for regulating subsoil and mining activities.

Anti-corruption law

The Anti-corruption Law of Mongolia (Anti-corruption Law) was ratified in 2006. To help prevent public officials from using their positions for personal gain, the Anti-corruption Law established an independent agency for preventing, detecting and investigating corruption cases. Further, business entities, organizations and private citizens have a legislative right to report corruption cases to the independent agency. Based on its review, the independent agency is responsible for taking appropriate further action, including opening formal inquiries and investigations.

Arbitration

Legal persons or entities can agree to resolve civil disputes through arbitration, in accordance with the Arbitration Law of Mongolia. The decision made by an arbitrator is binding in nature and generally cannot be subjected to judicial review and/or appeal. It is noted that, although the legal framework for arbitration exists, the system is not widely used in Mongolia.

Mongolia is a signatory of the Convention of New York of June 10, 1958 and as such, Mongolia recognizes and enforces foreign arbitration decisions. Similarly, arbitration decisions made in Mongolia should be recognized and enforced abroad.



TAXATION

5 TAXATION

This section is intended to be a useful indication of the types of taxes and rates imposed on businesses operating in Mongolia. It should be noted that this information is not comprehensive and is subject to change. Local advice should be obtained to ensure that your information is complete and current.

5.1 General tax law

Overview

The purpose of the General Tax Law (the Tax Law) in Mongolia is to:

- Establish legal grounds for the introduction, establishment, imposition, reporting, payment, control and collection of taxes in Mongolia
- Define the rights, duties and liabilities of taxpayers and tax authorities
- Regulate relations arising between taxpayers and tax authorities

All other laws and regulations relating to taxation in Mongolia should be read in conjunction with the Tax Law.

The Mongolian tax system comprises of taxes, fees and payments and are categorized as either state or local taxes. There are twelve types of state taxes and fourteen types of local taxes, controlled by regional Government.

Figure 7: State and local taxes in Mongolia

General Tax Law	
State taxes	Local taxes
Economic entities income tax (i.e. corporate income tax)	Individual income tax
Value-added tax (VAT)	Income tax on individuals engaged in work and services, income which cannot be immediately determined
Customs duty	Immovable property tax
Excise tax	State stamp duty (Others)
Stamp duty (Article 11.2 of the Stamp Duty Law of Mongolia)	Tax on auto and self-propelling vehicles
Royalty tax	Charges on permit to use natural resources other than minerals
Tax on petroleum and diesel fuel	Charges on use of commonly occurring minerals
Fees for mineral exploration and mining licenses	Land charges
Air pollution payment	Gun duty
Water pollution payment	Charges on use of natural resources
Tax on petroleum oil reserve usage	Capital city tax (newly approved)
Fees for petroleum oil exploration and licenses	Tax on dogs
	Tax on inheritance and gifts
	Charges on waste services

Rights and duties – taxpayers and tax authorities

The Tax Law sets out the responsibilities of taxpayers which include:

- Registration with the tax authority
- Providing required information and documentation to the tax authority
- Accurately maintaining records
- Withhold taxes
- Timely payments and filings

In addition to the above, there are a number of specific requirements which a good Mongolian accountant should be aware of, such as the need to use a cash register that meets certain standards.

The Tax Law also confers on taxpayers the right to carry out their activities without undue interference from the authorities and to have their confidentiality respected. However, information may be published by the tax authority in relation to taxpayers proven to have evaded taxes, violated tax legislation or who are being sought after in relation to such offences. Further, taxpayers have the right to:

- Obtain information and advice from the tax authority
- Demand refunds or deductions on overpaid taxes
- Make complaints and obtain explanations from the authorities
- Demand compliance from the authorities
- Obtain advice and assistance from legal tax consultants

The tax authority and state tax inspectors are required under the Tax Law to assist taxpayers in their duties by providing services such as public information, instructions and training. The time limit for the tax office to impose taxes in arrears, fines and penalties is five years (however, this varies depending on the type of tax and when the return or payment was due).

Tax reporting and payments

The tax year is from 1 January to 31 December. Corporate income tax reporting deadlines are detailed in Figure 8. A taxpayer must accurately determine and self-assess its income and tax due based on quarter-to-date and year-to-date tax statements prepared under accrual accounting and make payments to the Mongolian Tax Authority (MTA).

Figure 8: Tax reporting

Corporate income tax	
Quarter ending	Submission date
31 March	20 April
30 June	20 July
30 September	20 October
31 December (annual return)	10 February

For taxes other than corporate tax, specific reporting and payment requirements are established in the applicable legislation governing that tax type.

Tax audits

Once tax reports are submitted to the tax authority, they are reviewed for factors such as internal consistency, calculation errors, timely payments and compliance. Additionally, audits are conducted by the tax authority to test the accuracy and completeness of reporting. At least ten days' notice should be given ahead of an audit.

Taxpayers are required to grant tax inspectors full access during these audits. The owner of the property or business should also be present or represented.

Debt collection

Tax Law also prescribes tax registration and settlement, collection of overdue taxes and penalties for non-compliance. Essentially, the tax authority is responsible for registering all income and refunds due. Any late tax payments, penalties and fines are classified as 'tax debts' (which are required to be settled in a particular order). Fines are imposed on late tax payments, as well as overpayments made through the fault of the tax authorities. The fine rates are approved by the Government of Mongolia on an annual basis.

To settle 'tax debts' the tax authority may recover the amount owing from the taxpayer's bank account, deduct from the taxpayer's income or sell the taxpayer's assets (or use them as collateral). Ultimately, the tax authority may file a claim with the courts.

The penalty for late payment is currently 0.1% of the outstanding balance per day. The penalty for concealing taxable income through negligence or fraud (where criminal charges are not brought) is 30% of the tax payable.

5.2 Corporate tax

Overview of the corporate tax system

Taxpayers in Mongolia are separated into two separate classifications – resident and non-resident taxpayers, with different rates applying to various revenue streams depending on whether the entity is a tax resident in Mongolia.

- A resident taxpayer is an entity that resides in Mongolia on a permanent basis and comprises of entities established under Mongolian law and foreign entities that have their headquarters in Mongolia.
- A non-resident taxpayer is an entity that undertakes business activities in Mongolia through a permanent establishment (PE) or foreign entities that earn income sourced in Mongolia.

We outline the applicable tax rates for taxpayers considered Mongolian tax residents below.

The payment date requirements vary depending on the type of income. Local advice should be sought to ensure that you comply with the various payment date requirements.

Figure 9: Taxpayer that resides in Mongolia on a permanent basis – tax rates for common income sources

Corporate income tax		
Type of income		Tax rate
1	Annual taxable income between MNT 0 – 3 billion	10%
	Annual taxable income greater than MNT 3 billion	MNT 300 million plus 25% of income exceeding MNT 3 billion
2	Income from interest	10%
3	Income from dividends	10%
4	Income from royalties	10%
5	Income from the sale of rights	30%
6	Income from the sale of immovable property	2%

For non-resident taxpayers, income which has Mongolian source is taxed at 20%. Examples of non-resident income are outlined on the following page. These non-resident tax rates may be reduced if a double taxation agreement (DTA) is in place between Mongolia and the corresponding state.

Further, non-residents are obliged to register for tax purposes within 30 days commencing business in Mongolia if the PE is created unless otherwise provided in relevant DTA.

Figure 10: Taxpayer that does not reside in Mongolia on a permanent basis – tax rates for common income sources

Corporate income tax	
Type of income	Tax rate
Income from dividends	20%
Income from interest and payment for issuing a guarantee	20%
Income from royalties	20%
Income from leases, including tangible/intangible assets, financial lease interest and payment of administrative expenses	20%
Income from goods sold, work performed and services provided in Mongolia	20%
Income earned from service provided, work performed directly or electronically sourced from Mongolia	20%
Permanent Establishment profit repatriation (withholding tax)	20%
Income from interest of bonds that were issued by commercial banks of Mongolia	10%

Taxable income

Taxable income in Mongolia is derived by determining gross taxable income and subtracting deductible expenditure and tax exempt income.

Gross taxable income includes income from business activities, income from property (i.e. dividends and royalties) and income from the sale of property.

Deductible expenses are only permitted for resident taxpayers and include expenditure such as:

- Inventory
- Depreciation
- Staff expenditure
- Insurance premiums
- Loan interest

Certain income is considered tax exempt for resident taxpayers under the Tax Law. For non-resident taxpayers certain income may be tax exempt if it is derived from a product-sharing contract in the oil industry.

Losses

Losses can generally only be deducted from taxable income for up to two years following the tax year in which the losses were incurred. However, for the infrastructure and mining industries, losses may be deducted from taxable income for four to eight years following the tax year in which the losses were incurred.

In addition, the annual amount of loss deductible from taxable income is not permitted to exceed 50% of taxable income in the tax year. The exception to this is infrastructure and mining industries,

in which losses can be deducted to the extent of taxable income (i.e. 100% of taxable income) in the tax year.

The above loss carry forward provisions are subject to change as the Government publishes the loss carry forward rules annually for each industry.

5.3 Transfer pricing

Transactions between related parties must be at fair value for tax purposes. Where the tax authority does not consider that a transaction has been undertaken at fair value, the tax authority has the power to determine appropriate fair value, using a benchmarking methodology approved by the Government.

Under the Tax Law of Mongolia, “Mutually related entities” means entities authorized to directly and indirectly participate in management, control and property rights of any foreign and Mongolian legal entities. Entities will be considered ‘related parties’ for tax purposes where any of the following criteria is met:

- An entity that holds at least 20% of the common stock of another entity
- An entity that has the right to receive at least 20% of the dividends or distributions from the other entity
- An entity that has the right to appoint at least 20% of the management or otherwise determine the other entity’s policies

5.4 Double tax agreements

Mongolia recognises double tax agreements (DTAs) with various jurisdictions, including its key trading partners; China and Russia. We provide a list of Mongolia’s DTA partners (at the time of this publication) in Appendix One.

It should be noted that the Mongolian Government has been reconsidering its position with respect to a number of DTAs. Accordingly, anyone looking to place any reliance on the provisions of a DTA in assessing any investment decision would be advised to ensure that they seek the most up to date advice.

5.5 Tax incentives

A limited number of tax incentives are available to entities that are engaged in the agricultural and mining industries in Mongolia. The investment law specifies tax incentives available to investors such as exemption from the certain taxes, accelerated depreciation and amortization for tax purpose, tax loss carry forward, and the deduction of employee training expenses from taxable income. More details of tax incentives for investors including Tax Stabilization are available on Investment climate section (page 14) of this publication as well as on IMA website at: www.investmongolia.gov.mn/en/

In addition to that, corporate income tax credits are available on following types of income earned in Mongolia:

- Interest on bonds of the Government or the Development Bank of Mongolia
- Net income of a cooperative earned from sale of products marketed for its members
- Income from equipment and spare parts produced and sold within the territory of Mongolia, intended for use in the production line of small and medium enterprises
- Income of loan guarantee agencies derived from primary activities as specified in law
- Income from sale of eco-friendly equipment and technology that preserves natural resource, reduces environmental pollution and eliminates hazardous waste
- Income from sale of domestically produced innovation goods, work and service by a start-up company specified in the Law on Innovation for the period of 3 years from the registration date with the IPSRO.

- Income from premium charged by Savings deposit insurance fund

There has been a general move towards equality of treatment between national and foreign investors and a number of historical tax incentives that were available for foreign investment have been withdrawn in recent years.

5.6 VAT

Overview

VAT payers are defined as “VAT withholding agents” under the new VAT legislation. A VAT withholding agent may be a legal entity, individual or permanent establishment of a foreign entity, who is selling goods, services and works subject to VAT. The VAT payer is redefined as the end user i.e. the person/entity who ultimately bears the VAT cost.

VAT is imposed on goods imported into and exported out of Mongolia and goods produced or sold, work performed or services provided in Mongolia. The standard rate for VAT in Mongolia is 10% of the taxable value.

The timing of imposition is determined as taking place at the earlier of:

- The day when the seller receives payment for the sale of the goods, work or services;
- The day in which the seller issues an invoice
- The day the buyer purchases the goods, work or services

The taxable amount of VAT for goods produced and sold, work performed and services provided in Mongolia is usually the amount invoiced by the seller. However, where this is not available, or the tax authority believes that the price charged is higher or lower than market value, the tax authority may determine the fair market value and use this to determine the amount of VAT.

Registration

A VAT withholding agent is any of the following:

- An entity or individual that produces or sells goods, performs work or provides services in Mongolia
- An entity that imports or exports goods
- A representative office of a foreign company with sales revenue (of goods sold, work performed or services provided) of 10 million MNT or more

The VAT registration threshold is 50 million MNT. Revenue from sales of fixed assets should not be counted when determining whether the threshold has been breached. This should help to reduce the compliance obligations for some smaller organizations. If an entity or individual exceeds the threshold (as reported in their income tax returns), they are considered a VAT payer from the first day of the following month.

Registration must be submitted to the tax authority within ten working days of exceeding the threshold and the tax authority will issue a VAT certificate to the entity or individual confirming VAT registration. Tax is imposed from the day the tax authority issues the VAT certificate.

An entity or individual may voluntarily register for VAT when sales revenue from primary production, work or provision of services exceeds 10 million MNT. Group VAT registration is not available.

VAT returns and payment

VAT returns are required to be submitted to the tax authority on a monthly basis and the tax report submitted by the VAT payer must observe the approved standard format. Payment is due the same day as the VAT return.

Zero Rated VAT application

Zero rated supplies include exports of goods and services; international transport services; services related to international air travel; services provided in a foreign country (including tax-exempt services); services provided to foreign citizen not residing in Mongolia during provision of services (including tax-exempt services); and mining final products exported. Please kindly note that local advice should be sought on which items will be subject to Zero rated VAT regime.

Exemptions

Certain goods and services are exempt from the VAT regime in Mongolia including sale of gold to BOM and commercial banks with permission, certain food products produced domestically, education services, medical services and specific financial services. As such, local advice should be sought on which items will be VAT exempt.

VAT on Fixed Assets

VAT incurred on the purchase or importing of fixed asset shall not be credited against VAT due. Previously, this was creditable, and as such the change could represent a significant additional cost. It is not yet clear whether this will include VAT on lease premiums relating to fixed assets

VAT on Exploration

Input VAT incurred during the exploration stage is no longer creditable. Again, this could represent a significant additional cost.

Integrated system

Under the new law, VAT data will be shared centrally using an integrated electronic database system. All registered VAT withholding agents will have user account via which information should be uploaded.

Registered end-users may receive a 20% VAT refund where the following conditions are met:

- Goods, work or services are purchased from VAT withholding agents;
- Purchases are registered at the tax authorities;
- Purchased goods, work or services are taxed in accordance with the tax laws and regulations;
- Purchases are registered with the registration device as part of the new integrated system

Additionally end users may receive a reward under a lottery style arrangement at the year end.

5.7 Immovable property tax

Immovable property tax applies to land and other immovable property at a rate of 0.6% to 1% depending on the location, size, and supply and demand of the property. The value of immovable property shall be determined by the valuation of that property as registered with the Immovable property state registry. If there is no such registration, the value shall be determined by the insured sum of the property. If registration or insured valuation are both not available, the value shall be established as the book value in the accounting records. Tax is calculated on an annual basis and paid in either quarterly installments (for entities) or annually (by individuals).

A number of exemptions and significant reductions apply, most notably in relation to buildings or land used for public purposes, by the state, for agriculture or as private residences or buildings built and registered in Free Trade Zones. However, exemptions may also be available for companies operating in industrial parks.

5.8 Excise taxes

Excise taxes in Mongolia are imposed on:

- Alcohol
- Tobacco
- Petroleum products

- Passenger vehicles
- Gaming equipment and activities

Key exemptions for companies are available on goods produced domestically for export, duty-free alcohol and tobacco, snuff tobacco and hybrid automobiles. Rates are dependent on the type of product and in some cases are higher for imports. Excise tax duties were set at flat rates in USD per unit of product up until 23 January 2015. Since the amendment made in the Excise Tax Law on that date, excise duties are set in MNT.

5.9 Customs duty

Imports

The MTA is responsible for administering import laws and regulations. The majority of imports do not require a special license or approval, but are required to be declared to Customs, along with a description and value of goods imported.

Transaction value is the most commonly used method of valuation. Alternative valuation methods include:

- Transaction value for identical merchandise
- Transaction value for similar merchandise
- Deductive method
- Computed method

Based on this information, Customs will determine the amount of tariff to be paid on the import. Tariff rates are established and approved by the Government. Import tariffs can be regular, favored or preferential. As such, depending on the country in which a product is imported from, a favored and/or preferential tariff rate may apply in lieu of a regular rate.

Exports

Generally speaking, most exports are not subject to tax. In theory, an export tax exists but it is applied to a limited number of products only. Most exports do not require a special license or approval, however exporting the following items is restricted (amongst others):

- Uranium
- Firearms
- Certain dangerous and poisonous chemicals

5.10 Mining royalties

Under the Mongolian Mineral Law, royalties are payable on the sale of minerals both within Mongolia and abroad. The amount of royalty payable is based on a standard flat-rate royalty and may also include a surtax royalty, with percentages applied depending upon the type of commodity and the market price. The Ministry of Mineral Resources and Energy is responsible for determining the reference price to be applied.

5.11 Personal income tax

Personal income tax is regulated by the Personal Income Tax Law of Mongolia (the Personal Tax Law).

Taxpayers

Personal taxpayers in Mongolia are classified as resident and non-resident taxpayers. A resident taxpayer of Mongolia is a taxpayer who has either:

- A fixed place of residence in Mongolia
- A presence in Mongolia for a period and/or periods exceeding 183 days in a given tax year

- Mongolian state officials currently appointed in a foreign country

Conversely, a non-resident taxpayer is a person who does not have a fixed place of residence in Mongolia and has not been present in Mongolia for 183 days in a given tax year. Additionally, foreigners who work for foreign embassies or consular offices, or for the United Nations and its affiliated organizations, are considered non-resident.

A resident taxpayer is required to pay taxes in Mongolia on both their taxable income earned in Mongolia and overseas income (i.e. their worldwide income). Non-resident taxpayers are only required to pay taxes on taxable income earned in Mongolia.

Tax rates

The Personal Tax Law defines the different types of personal income subject to the tax and establishes the tax rate applicable for each income type. Resident and non-resident taxpayers are taxed at the same rate.

The rate of tax applied to individuals for employment related and investment income is 10%. For other types of income, rates are usually the same as the applicable corporate tax rate (refer to section 5.2 for further details).

Exemptions

In addition to the personal tax credit of MNT 84,000 (that applies to both resident and non-resident taxpayers), certain income is tax exempt under the Personal Tax Law, including:

- Certain employee pensions, benefits, payments, discounts and reimbursements
- Per-diem payments
- Insurance proceeds
- Payments, interest and penalties for Government notes payable (i.e. Government bonds)

Please note that this is not a complete list but an example of common tax exempt income for individuals.

IMMIGRATION AND EMPLOYMENT



6 IMMIGRATION AND EMPLOYMENT

6.1 Immigration

Immigration is a key issue for any business operating in Mongolia that will be employing expatriates, as well as individuals coming to Mongolia to invest. The Law of Mongolia on the Legal Status of Foreign Nationals (the Foreign Nationals Law) is the basis of the regulation relating to the entry and naturalization of foreign nationals.

Visas

Generally, foreigners are required to have a Mongolian visa to enter the country.

Foreigners visiting Mongolia for more than 30 days are required to register with their local Office of Immigration, Naturalization and Foreigners Registration (Immigration Office) within seven days of arrival. Failure to register may result in fines or penalties. If a foreigner is invited to visit Mongolia, the citizen, business entity or organization inviting the foreigner is responsible for registering them with the Immigration Office.

Residence permits

Foreigners who wish to reside in Mongolia may apply for a residence permit. Residence permits are valid for up to one year and can be extended for an additional years. Residence permits are granted for the following purposes:

- Work
- Family reasons
- Immigration
- Investment
- Study, internship, scientific research and other private matters

Applications for residence permit, for the purpose of work are required to be requested by the foreigner's employer.

In addition, the number of foreigners residing in Mongolia is limited by the Foreign Nationals Law to 3% of the total population, and the number of foreign nationals from each country to 1% of the total population.

Work permits

A business entity, organization or citizen can employ workers and specialists from abroad for occupations and professions requiring high professional skills. Prior to employing workers and specialists from abroad, a work permit is required to be obtained by the employer from the Labour and Social Implementation Agency (Labour and Social Agency). Requests for work permits must be made in writing and include the following documents, among others:

- Business case for hiring a foreign national
- Employment contract between the two parties
- Diploma, certification and passport of the foreigner

Work permits are granted for up to one year and can be extended based on a written request from the employer. In considering an extension, the Labour and Social Agency takes into account the business case for continued employment and the results of work performed thus far.

Fees and quotas for employing foreign workers

An organization employing workers and specialists from abroad is required to pay a fee for employing a foreigner. Unless otherwise noted in trade agreements with specific countries, the fee must be paid on a monthly basis and is currently set to MNT 384,000.²⁰ The fee is linked to a minimum

²⁰ [Legal Information Mongolia](#)

compensation amount that is periodically updated and approved by the Government. The revenue generated from this fee is used to fund government programs designed to combat unemployment in Mongolia.

Quotas have been established for the number of foreign workers that can be hired in a given year. Depending on the economic sector and the size of the organization hiring the foreigner, foreigners can comprise as much as 70% or as little as 5% of the total workforce of an organization. Generally, organizations operating in the mining and construction industries can hire a higher percentage of foreign employees. Quotas are updated and approved on an annual basis by the Government.

A limited number of cheaper 'investor' visas are also permitted to each employer.

6.2 Employment regulations

Labour relations in Mongolia are regulated by the provisions established in the Labour Law of Mongolia (the Labour Law). The Labour Law provides general rules related to labour contracts, working conditions, labour disputes and other matters related to labour relations. The general provisions articulated in the Labour Law apply to all foreign and domestic parties entering into labour contracts within the territory of Mongolia, unless otherwise noted in subsequent articles and/or trade agreements with specific jurisdictions.

Labour contracts

The Labour Law provides that all employment contracts must be in writing and must contain the following information:

- Name or title of the position of employment
- Duties and work to be performed
- Amount of compensation
- Work conditions (e.g. any conditions that may impact an employee's safety or ability to perform work)

If the basic requirements listed above are not agreed upon during the course of a negotiation, the employment contract can be considered void. Additional terms and conditions may be agreed upon by the parties to be included in the contract, provided that the additional terms and conditions are compliant with existing laws and regulations of Mongolia.

Employment contracts can be for a fixed-term or permanent. For fixed-term employment contracts, the Labour Law establishes conditions where the employment contract may be lawfully terminated, prior to the end date of the contract. These conditions include situations where both parties agree to terminate an employment contract prior to the end date of the contract or if an employee is required to undertake active military service.

Severance pay

If an employment contract is lawfully terminated (in accordance with the Labour Law) or if an employee is required to partake in active military service, the employee is eligible for a severance payment.

The minimum severance payment is equivalent to the average salary currently received by the employee, unless otherwise stipulated in an employment contract. A default method for determining the average salary of an employee is established by the Minister of Social Welfare and Labor.

Working hours

The standard work week in Mongolia consists of a 40 hour week, typically treated as eight hours per day from Monday to Friday with Saturdays and Sundays treated as public days of rest. In addition, the Labour Law defines a work day as eight hours of work and requires at least 12 hours of uninterrupted rest between two work days. If an employee works beyond the standard eight hour day at the initiative of their employer, the additional work performed by the employee is considered overtime and should be compensated by either time in lieu or overtime pay.

The employer is further restricted in the circumstances in which they can impose overtime on public holidays and weekends.

Salary

Employees are typically paid twice a month or more frequently if stipulated by the employment contract. Compensation consists of base compensation, extra pay, awards and bonuses. The Labour Law establishes a minimum compensation level which is currently set to MNT 192,000 per month for most jobs. However, there are higher compensation levels for the mining and transportation sectors. From 1 January 2017, the minimum compensation level will increase to 240,000 MNT per month.

Employers are required to provide extra pay in certain circumstances, including:

- Overtime, which must be at a rate at least 50% greater than regular pay
- Work performed over a public holiday, which must be double the amount of regular pay
- Night shift work, which is at a rate established in the employment contract

Paid vacation

Annual paid vacation for employees in Mongolia is mandatory. First time employees become entitled to an annual vacation after 11 months of service, with vacation periods ranging from 15 days to 33 days, depending on the number of years served and the type of work performed. Annual paid vacation can be exchanged for payment if employees are unable to take their annual vacation.

Maternity leave

Under the Labour Law, new mothers are entitled to 120 days of maternity leave, during which state benefits are paid. State benefits are capped at ten times national minimum wage. This is typically taken for two months on either side of the expected delivery date. Additional days can be taken if there were any complications during delivery. In addition to taking days off, mothers with an infant of up to twelve months old are entitled to extra one or two hours of rest during a work day.

6.3 Social security

The Mongolian Social Security System (Social Security) provides pension, health, disability and unemployment, amongst others. Participation in Social Security is mandatory for all Mongolian nationals, foreigners and stateless persons who are employed within the territory of Mongolia.

Rates

Both employers and employees are required to pay social security contributions, at rates which are established by the Social Insurance Law of Mongolia. Employer contribution rates vary from 11% to 13%, depending on the industry. Employee contribution rates are 10% (from salary and similar income). However, employee monthly contributions are capped at the minimum wage (currently MNT 192,000). The recently revised Social Security legislation implied the introduction of a similar employer cap from 1 July 2015, however, the change will not become effective as yet until Government approves the cap amount, and until this has been agreed, the existing provisions prevail.

Employers are responsible for withholding social security contributions and transferring them to relevant authorities on a monthly basis.

Social security benefits

Workers who have contributed to Social Security are eligible for social security benefits. Pension benefits are paid to a worker or the worker's family upon their retirement, disability or death. Similarly, aid benefits are paid to a worker or the worker's family upon disability, pregnancy or death. The amount of benefit paid to a beneficiary can depend on a variety of factors, including the salary of a worker and the number of years he or she contributed to Social Security. Health benefits are paid in case of a worker's illness.

To access healthcare at a state hospital, employees need to provide evidence of their contributions.

APPENDIX 1: DOUBLE TAX AGREEMENTS

The following countries have concluded agreements with the Government of Mongolia on the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital.²¹

Currently in force:

- Austria
- Belarus
- Belgium
- Bulgaria
- Canada
- Czech Republic
- Democratic People's Republic of Korea
- France
- Germany
- Hungary
- India
- Indonesia
- Kazakhstan
- Kyrgyzstan
- Malaysia
- People's Republic of China
- Poland
- Republic of Korea
- Russia
- Singapore
- Switzerland
- Turkey
- Ukraine
- United Kingdom
- Vietnam

Signed but not yet in force at the time of writing:

- Italy
- Thailand
- Egypt
- Latvia
- Romania
- Uzbekistan

The Mongolian Government has been reconsidering its position with respect to a number of DTAs. Accordingly, anyone looking to place any reliance on the provisions of a DTA in assessing any investment decision would be advised to ensure that they seek the most up to date advice.

²¹ Mongolian Tax Authority

APPENDIX 2: GLOSSARY

AFCCP	Authority for Fair Competition and Consumer Protection
Anti-corruption Law	The Anti-corruption Law of Mongolia
Company Law	Mongolian Company Law
Competition Law	The Competition Law of Mongolia
DTA	Double Tax Agreement
FDI	Foreign Direct Investment
GBP	British Pound
GDP	Gross Domestic Product
IFRS	International Finance Reporting Standards
IMA	Invest Mongolia Agency
Immigration Office	The Office of Immigration, Naturalization and Foreigners Registration
IP	Intellectual Property
IPO	Initial Public Offering
IPOM	Intellectual Property Office of Mongolia
IPSRO	The Intellectual Property and State Registration Office
Labour and Social Agency	The Labour and Social Implementation Agency
LSEG	London Stock Exchange Group
MNT	Mongolian Tugrik
MTA	Mongolian Tax Authority
MPP	Mongolian People's Party
MPR	Mongolian People's Republic
MPRP	Mongolian People's Revolutionary Party
MSE	Mongolian Stock Exchange
NSO	National Statistical Office
SMEs	Small and Medium Enterprises
Social Security	The Mongolian Social Security System
Stamp Duty	Stamp Duty Law of Mongolia
The Foreign Nationals Law	The Law of Mongolia on the Legal Status of Foreign Nationals
The Labour Law	The Labour Law of Mongolia
The Personal Tax Law	The Personal Income Tax Law of Mongolia
The Tax Law	The General Tax Law
Trade Names and Trademarks Law	Law of Mongolia on Trade Names and Trademarks
USD	United States Dollar
VAT	Value Added Tax

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