

Should you be interested in the whole edition of the Investment Guide Book 1, please contact me any time.

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## **National and International Business and Tax Law**

### **Successful investing in Vietnam Massmann's investment guide in Vietnam**

#### **1<sup>st</sup> Book THE BASICS**

**Oliver Massmann  
Attorney**

**Hanoi**

**10<sup>th</sup> revised edition**

**December 2010**

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**Oliver Massmann** is the first German lawyer who obtained the license of the Vietnamese Ministry of Justice to practice in Vietnam in the area of international law. From January 1999 to March 2007 he worked with the Baker & McKenzie law office in Hanoi /Vietnam. Then, in 2007, Mr. Massmann set up offices in Hanoi and Ho Hi Minh for the renowned American law firm “Duane Morris”.

Mr. Massmann studied law at the Ruhruniversität Bochum, Germany and Vietnamese language at the Foreign Language University, Hanoi, Vietnam. As a lawyer in Berlin he focused his practice mainly on the area of commercial law. He has extensive experience in commercial and investment law both in Germany and in Vietnam. He participated in the privatization of the East German state-owned companies, in particular ports and heavy industry companies. From 1999 to 2001 he ran negotiations for the construction of Vietnam's first build-operate-transfer (BOT) power plant and successfully completed this project. Mr. Massmann is Counsel of Choice of the German Embassy in Vietnam and he conducts courses on international law in Vietnamese language at the Ministry of Justice’s Department of Law in Hanoi.

In Germany, Mr. Massmann regularly publishes Guides to the Vietnamese Investment Law. Besides his native German, he is fluent in speaking and writing English and Vietnamese.

## TO THE TENTH EDITION OF THE INVESTMENT GUIDE

Similar to previous editions, the tenth edition of the Investment Guide is divided into different areas of law presented in seven volumes. Given the wealth of information obtained, this division should serve the clarity and facilitate targeted advice. In addition, of course, a comprehensive overview of the Vietnamese investment law is provided.

The volume “The Basics” should offer you an initial step into the Vietnamese investment law and its different areas. Here, you will find various possibilities of overseas investments presented in the context of Vietnam’s investment policy, still the main focus is laid on direct investments. However, for the first time, possibilities of other economic activities will be presented. In addition to this general and basic information, more specific problems will be addressed in the specialized books. The following list contains an overview of the available areas of law:

1. Book: Basics;
2. Book: Taxes and Customs;
3. Book: Banking and Securities Law, Land Use Law and Insurance Law;
4. Book: Labor Law and Quality management;
5. Book: Intellectual Property,
6. Book: Legal system,
7. Book: The electricity industry.



**HONG KONG LIMITED**

Hong Kong, 11 February 2010

**To Whom It May Concern**

My name is Thomas Domanski and I am heading the Vietnamese operations of Bauer HK, which is a member of German based Bauer Group and a subsidiary of MDax listed ultimate holding company Bauer AG, specializing in foundation engineering, machinery and related services. A considerable part of Bauer Group's corporate activities takes place in Asian countries, among them Vietnam.

While we try our utmost to avoid entering into legal proceedings to enforce contractual rights, this is – unfortunately – not always possible. In this regard, we would like to highlight our satisfaction with the highly professional services rendered by Mr. Oliver Massmann of Duane Morris LLC, Hanoi, who successfully represented Bauer in a Singapore (SIAC) based arbitration proceeding concerning a dispute about payment for construction works provided by Bauer in Vietnam.

We would like to note that Mr. Massmann's successful handling of the case significantly contrasts with the performance of a well established Vietnamese office of one of the biggest international law firms to which we assigned the handling of the dispute initially. Mr. Massmann's services combined thorough legal analysis with a strong commercial approach, leading to a timely and efficient resolution of the dispute at hand. In addition, we would also like to mention that our Vietnamese staff confirmed that they have not yet met a foreign lawyer with comparably proficient Vietnamese language skills and the ability to use them so well in negotiations. Mr. Massmann has all the necessary background capabilities to be a real problem solver. We regard him and Duane Morris LLC as an excellent choice for dispute resolution services and would not hesitate to entrust them with further work.

Best regards

Thomas Domanski  
Managing Director

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## INTRODUCTION OF NEW BOOKS

### Division into seven volumes

While designing this Investment Guide, the needs of both potential investors and investors already active in Vietnam were the highest priority. As in previous editions of the Investment Guide, also this time the focus is laid on providing the most important information connected with the various forms of investment and all economic and legal issues that must be taken into consideration. Due to the rapid development of Vietnam's economy and investments and the related abundance of new legal regulations in both areas, the Investment Guide has grown to a considerable size in the recent years. In order to provide a clear presentation of the huge amount of information and to visibly distinguish specialist fields which are important only to certain types of investors from basic information which is important in general to all investors, starting with the seventh edition we have split the Investment Guide into "The Basics", upon which six subject specific books are based. At your request, we will gladly send you any of these books.

### "The Basics" and the specialized volumes

This first volume is the main book of the Investment Guide Vietnam. It deals with general legal and economic developments in the area of the Vietnamese investment law and offers a general overview of the most important forms of investment and their anchorage in Vietnam's law. However, specific economic and legal facts that must be taken into consideration by an investor as well as specific laws and treaties that must be observed are described in the six specialized volumes which build upon the information presented in the main book. While in case of the main book no special legal knowledge is a prerequisite, it is advisable to possess basic legal knowledge to better understand the subject specific books. We would like to point out that while developing the concept of the specialized volumes we resigned of explaining fundamental legal terms and assumed the readers' well-established comprehension of the fundamentals.

### **Presentation of the specialized volumes**

In order to enable a fast overview of each of the subject specific books, we would like to make a short presentation of them in the order in which they are published. These volumes as well as the main book are updated on a regular basis and adapted to new developments. If you are interested, do not hesitate to order them from us. Furthermore, please be advised that all parts the Investment Guide serve informational purposes only and cannot replace professional legal consultation and, therefore, no guarantee can be given as to accuracy of the information provided.

### **2. Book: Taxes, Export & Import Law**

The second of the seven-book series of the Investment Guide, and in particular its first and biggest part, is dedicated to the Vietnamese tax law. This chapter is especially interesting for an overseas investor, because already while choosing the legal form of an enterprise or investment a question arises what fiscal implications this would entail. Vietnam has an extensive tax system for investments. The second volume of the Investment Guide describes all tax types which are relevant to foreign investors and all important laws connected with it. It also explains both the bases and methods of taxation. In this context you should note that Germany and Vietnam signed the Double Tax Treaty to relieve double

taxation. Moreover, special attention is paid to tax abatements and exemptions from various tax types which are available in case of certain investments and, thus, of great interest to investors. The second part of the book focuses on import and export law and, in particular, on import duties and controls imposed by the government in order to control external trade. It also deals with licensing requirements and outlines the various consents that are required for imports and exports.

### **3. Book: Banks and Insurance, Securities Law, Land Use Law**

The third volume deals with important aspects of the Banking and Securities Laws as well as the Vietnamese policy of monetary control. Furthermore, it accounts for relevant regulations on converting foreign currency transferred into Vietnam by investors and explains how to meet the need of foreign currency of such enterprises. A short subsequent part is dedicated to insurance companies in Vietnam and the new Insurance Law which came into effect in April 2001. Furthermore, this volume also includes information about issuing securities, the Vietnamese Stock Exchange which was launched in July 2000 and the system of acquiring land use rights from the Vietnamese State. In Vietnam, there are only certain ways of financing a project which are allowed by law; these are discussed in a separate chapter of the third volume.

### **4. Book: Labor Law and Quality management;**

Whatever form of enterprise they establish, foreign investors hire Vietnamese labor force. According to the Vietnamese Labor Law, the Vietnamese regulations apply both to domestic and international labor force. For that reason, the fourth volume describes all regulations connected with concluding and terminating employment contracts as well as obligations to inform the authorities. This book also discusses the necessity of obtaining work permit and explicates regulations on employment terminations. References are made to various laws that contain labor regulations applicable while implementing investment projects. Furthermore, the fourth volume elucidates the aspects of quality assurance and expounds the three crucial categories of quality assurance in regard to various requirements in the area of production and transportation of goods.

### **5. Book: Intellectual Property, Internet and Information Technology, e-commerce**

With the enactment of the Civil Code in 1996 the laws protecting intellectual property came into effect for the first time in Vietnam, a ministry office to protect industrial property rights was established and Vietnam became a signatory of many international treaties on protection of industrial property rights. These are Vietnam's first steps towards a broad standardization of intellectual and industrial property rights, from which benefit individual investors but also the attractiveness Vietnam's as an investment and business location grows. Therefore, the first part of the fifth volume is dedicated to important developments in this area and to registration und procedure and industrial property rights, as well as the procedure for licenses for technology transfer in Vietnam. Most important the industrial property rights in the IT sector, especially software industry. The book will point out the developing plan for software industry and the existing law. Also it will point out the development on internet and of the technology of the information sector. ASEAN agreements for cross border trade and contracts via internet as well as e-commerce will be explained to you.

## **6. Book: Legal system and Vietnam's international liaisons: BTA and KA AFTA and WTO**

The sixth and second last book of the series begins with an introduction into the Vietnamese legal system and, besides the general presentation of the general legislative activities, it also expounds both regulations which must be observed by the investor and are applicable to him as well as the Vietnamese court system and possibilities of arbitration. In the second part of this book various international treaties to which Vietnam is a party and organizations to which Vietnam belongs or aspires to join are described. Among these treaties, the most important is the U.S. - Vietnam Bilateral Trade Agreement which has an impact that goes far beyond the borders of both countries and spreads to Vietnam's entire international trade and thus is here subject to a more in-depth analysis. On January 11, 2007 Vietnam became the 150th member of the WTO. The wide-reaching impact of the BTA that outreaches the scope of the Agreement and affects German and other non-US investors is the thematic priority of the second part of the sixth book.

## **7. Book: The electricity industry and infrastructure**

The last of the seven-volume series addresses the electricity industry which devours a great part of the financial aid provided to Vietnam by foreign countries. In addition to presenting all laws relevant to the power sector and the sole energy purchaser – the EVN, a state-owned utility established in 1994, the book also gives a picture of Built Operate Transfer (BOT) Projects in the area of energy and expounds in more detail the legal backgrounds, giving various examples. One of the major challenges for foreign investors involved in such projects is the strong influence of monopolistic enterprises. Therefore, the book gives an overview which authorities an investor has to deal with and what risks he has to take into account while implementing BOT projects.



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