Working Paper 2024.2.3.13
- Vol 2, No 3

TÁC ĐỘNG CỦA HIỆP ĐỊNH TRÁNH ĐÁNH THUẾ HAI LẦN (DTTS) ĐỐI VỚI VIỆT NAM VÀ KHUYẾN NGHỊ DÀNH CHO DOANH NGHIỆP TRONG THỜI KỲ HỘI NHẬP QUỐC TẾ

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Tóm tắt

Hiệp định tránh đánh thuế hai lần (DTT) đóng vai trò then chốt trong việc tạo thuận lợi cho thương mại và đầu tư xuyên biên giới bằng cách giảm thiểu tác động bất lợi của việc đánh thuế hai lần. Bài viết này xem xét tác động của các Hiệp định tránh đánh thuế hai lần đối với Việt Nam, đặc biệt trong bối cảnh hội nhập vào nền kinh tế toàn cầu. Thông qua phân tích tác động của các hiệp định này, cùng với kinh nghiệm của các doanh nghiệp hoạt động tại Việt Nam, nghiên cứu này đưa ra các khuyến nghị nhằm tối ưu hóa việc tận dụng các Hiệp định tránh đánh thuế hai lần của các doanh nghiệp trong bối cảnh hội nhập quốc tế phức tạp. Bằng cách hiểu được ý nghĩa của các Hiệp định tránh đánh thuế hai lần và thực hiện các chiến lược hiệu quả, doanh nghiệp có thể điều hướng bối cảnh thuế hiệu quả hơn, từ đó thúc đẩy tăng trưởng và phát triển bền vững.

Từ khóa: Hiệp định tránh đánh thuế hai lần, Việt Nam, Hiệp định thuế, Hiệp định đánh thuế hai lần

IMPACTS OF DOUBLE TAXATION TREATIES (DTTS) ON VIETNAM AND RECOMMENDATIONS FOR ENTERPRISES IN THE ERA OF INTERNATIONAL INTEGRATION

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Abstract

Double Taxation Treaties (DTTs) play a pivotal role in facilitating cross-border trade and investment by mitigating the adverse effects of double taxation. This paper examines the impacts of Double Taxation Treaties on Vietnam, particularly in the context of its integration into the global economy. Through an analysis of the impacts associated with these treaties, along with the experiences of enterprises operating within Vietnam, this study offers recommendations to optimize the utilization of Double Taxation Treaties by enterprises amidst the complexities of international integration. By understanding the implications of Double Taxation Treaties and implementing effective strategies, enterprises can navigate the tax landscape more efficiently, thereby fostering sustainable growth and development.

Keywords: Double Taxation Treaties, Vietnam, Tax Treaties, Double Tax Agreement.

1. Introduction

In an increasingly interconnected global economy, nations strive to attract foreign investment and promote international trade while ensuring fair and equitable taxation. Double taxation, resulting from overlapping tax jurisdictions, has long been recognized as a barrier to cross-border economic activities, impeding the flow of capital and hindering economic growth. Double Taxation Treaties have emerged as a vital tool for addressing this challenge by providing mechanisms to allocate taxing rights between treaty partners and prevent the double taxation of income.

For Vietnam, a rapidly developing economy in Southeast Asia, the significance of Double Taxation Treaties cannot be overstated. As the country embraces international integration and expands its presence in global markets, the role of Double Taxation Treaties in facilitating cross-border transactions and attracting foreign investment becomes increasingly prominent. However, while Double Taxation Treaties offer numerous benefits, they also present complexities and challenges for enterprises operating within Vietnam.

This paper aims to explore the impacts of Double Taxation Treaties on Vietnam and provide recommendations for enterprises navigating the complexities of international integration. By examining the advantages and challenges associated with Double Taxation Treaties, as well as the experiences of enterprises operating in Vietnam, this study seeks to offer insights into how businesses can effectively leverage Double Taxation Treaties to optimize their tax planning strategies and enhance their competitiveness in the global marketplace. Through a comprehensive analysis, this paper aims to contribute to a deeper understanding of the role of Double Taxation Treaties in Vietnam's economic development and provide practical guidance for enterprises seeking to maximize the benefits of international tax treaties.

2. Theoretical framework and literature review:

2.1. Double taxation:

In the book "Basic Problems in International Fiscal Law" (1979), Knechtle distinguishes between the broad and narrow meanings of double taxation. According to Gunadi (2007), Knechtle argues that in the broad sense, double taxation encompasses all forms of taxation and levies imposed multiple times, which can be double (double taxation) or more (multiple taxation) on a tax subject (tax subject and/or object). Conversely, in the narrow sense, double taxation is considered to occur in all cases where a subject and/or tax object is taxed multiple times within the same tax authority.

According to the Ministry of Finance, the residency status or the source of income generation is determined differently according to the regulations of each country/territory, and in many cases, a business or individual may be a resident of two (dual resident) or multiple countries. Therefore, double taxation may occur in many cases such as: when two or more countries tax the global income of the same taxpayer, when two or more countries both identify an income of a taxpayer generated from their territory and tax that income; when a business or individual is a resident of one country but earns income in another country, therefore, they have to pay taxes (on global income) in the country where these residents are based, as well as pay taxes on the income generated in the country where they are not considered residents.

Gunadi further clarifies that double taxation in the broad sense, depending on the country (jurisdiction) levying the tax, can be divided into two types: (1) internal (domestic) and (2) external (international). Internal double taxation occurs within countries where the same tax is imposed at different administrative territorial levels. In the case of external double taxation, national legislation determines tax liability by analogy with the laws of another state. Resolving issues related to external double taxation typically involves the conclusion of international bilateral or multilateral agreements. The root cause of double taxation usually lies in the differing legislative regulations governing taxpayers and income sources across different states (Latkovska, Latkovskyi and Podolska, 2020).

Double taxation, whether within a country's borders or across international jurisdictions, poses a significant threat to economic prosperity, equity, and overall efficiency. Its economic impacts include reduced investment (United Nations, 2024), increased administrative costs, distorted investment decisions, and ultimately, diminished tax revenue. From an equity standpoint, double taxation disproportionately burdens specific sectors and individuals, discourages cross-border activity, and erodes the tax base of affected countries. Additionally, the complexity and uncertainty it creates discourages economic activity and innovation, potentially damaging a country's reputation for attractiveness to businesses. Legal disputes arising from double taxation can also be lengthy and costly.

Double taxation poses a significant challenge for international businesses and individuals (Tetiana Zhelekhovska, 2023). It reduces competitiveness by raising the overall tax burden for cross-border activities, increases administrative costs due to the complexities of complying with multiple tax regimes, discourages foreign investment by creating barriers to capital flow, and introduces uncertainty through potential disputes arising from differing interpretations of national tax laws.

2.2. Double taxation treaties:

2.2.1. Concept of double taxation treaties

A Double Taxation Treaties (DTTs) or Double Taxation Avoidance Agreements (DTAAs) or tax treaty refers to the imposition of taxes multiple times by two or more countries on the same income. The purpose of a tax treaty is to delineate the allocation of taxation rights arising from transactions between the source country (where the income originates) and the residence country (where the taxpayer resides or is domiciled) over different items of income or capital (United Nations, 2024).Simultaneously, it aims to remove one of the barriers to taxation that restrict business activities, trade, and investment attraction; prevent evasion and/or avoidance of taxes levied on income and assets through provisions for exchanging information about taxpayers as well as commitments to assist in tax administration among the signing parties; ensure fair treatment regarding tax obligations or related responsibilities among taxpayers with different nationalities but in similar circumstances; and to create mechanisms for dispute resolution (The Ministry of Finance). Reuven S. Avi-Yonah analyzes the network of over 2,500 bilateral double tax treaties (DTTs) based on OECD and UN models, suggesting that rules preventing double taxation (through exemption or foreign tax credit) have become part of customary international law.

The tax treaty serves five main objectives: preventing double taxation that could impose undue burdens on businesses, facilitating increased foreign investment, enhancing human resources development, facilitating the exchange of information to combat tax evasion, and promoting equitable treatment between nations (Ministry of Finance, 2020).

To achieve these objectives, tax agreements typically stipulate a number of principles and measures to allocate and determine the tax jurisdiction of each signing country, such as: (1) Determining the taxing rights of the country where the income is generated for certain types of income (17 types of income) of non-resident entities; (2) Limiting the tax rates imposed on certain types of income from indirect investments (dividend income, interest from loans, royalties) and technical service fees of non-resident entities of the country where the income is generated (for example, if the tax rate according to domestic law is higher than the tax rate stipulated in the tax agreement, then the tax rate stipulated in the tax agreement will be applied). However, tax agreements do not impose new, different, or heavier tax obligations than domestic tax laws. For example, in cases where the tax agreement provides that Vietnam has the right to tax certain types of income or tax at a certain tax rate, but the current tax law in Vietnam does not include provisions for taxing that income or provisions for a lower tax rate, the provisions of the current tax law in Vietnam will be applied, meaning no tax will be levied or tax will be levied at a lower tax rate; (3) Allowing deductions for taxes paid abroad from the taxes due in the resident country (provided that taxes paid abroad comply with the provisions of foreign law and the relevant tax agreement); (4) Preventing tax evasion by enhancing information exchange between the signing parties.

2.2.2. The models of double taxation treaties

The two basic model tax conventions in the business world include: the OECD Model Tax Convention and the UN Model Convention. Both act as universally recognized frameworks, providing a standardized structure and common ground for countries crafting bilateral tax treaties.

The OECD Model Tax Convention is a pivotal framework developed by the Organisation for Economic Co-operation and Development (OECD) to guide countries in negotiating bilateral tax treaties. Its primary objective is to prevent double taxation and combat tax evasion by establishing clear rules regarding the taxation of various income types, including business profits, dividends, interest, royalties, and capital gains. The model addresses key principles such as tax residency determination, permanent establishment rules, non-discrimination, and the exchange of tax information between jurisdictions. It also includes a mutual agreement procedure to resolve disputes arising from the interpretation or application of the tax treaty. The OECD Model Tax Convention remains a vital instrument in fostering international tax cooperation, promoting a fair and efficient global tax system, and facilitating cross-border trade and investment.

The UN Model Convention, specifically the United Nations Model Double Taxation Convention between Developed and Developing Countries, serves as a blueprint for nations to negotiate bilateral tax agreements. This convention is similar to the OECD Model Tax Convention as both of them aim to streamline cross-border tax agreements, however they differ in their approach. The OECD model favors taxing income based on the taxpayer's residence, typically preferred by developed nations who provide capital and technology. The UN model, however, prioritizes taxing income based on its source, often aligning with the interests of developing countries seeking to protect their tax base and prevent capital flight. Despite their distinct target audiences, both models offer flexibility. Countries can adapt the frameworks to their specific economic and legislative landscape, ensuring a tailored fit for each treaty.

Vietnam utilizes either of the models as guiding principles for its tax treaties, with the OECD model for developed countries such as France, Japan, and South Korea, the UN model for developing countries and the US model for Thailand, Cambodia, and the Philippines.

2.3. Literature review:

In the research “Asymmetric Double Tax Treaties and FDI in Developing Countries: The Role of the Relief Method and Tax Sparing (2023)”, the authors suggest that having a treaty between the OECD member state and the developing country, which improves the investor’s conditions in terms of tax burden by changing the unilateral tax relief method, increases FDI to the developing country. The positive effect prevails when investigated within investments made through the direct route from home to host. Furthermore, results suggest that OECD member states offer tax sparing provisions mostly to less-developed economies, which already receive very low, if any, foreign direct investment.

Studies on the impact of Double Taxation Treaties (DTTs) on foreign direct investment (FDI) have shown mixed results. While Büthe & Milner (2009) saw DTTs as key to attracting foreign investment, some countries signed them despite unclear evidence of their effectiveness. Murthy and Bhasin (2013) showed that tax treaties play a positive and statistically significant role in attracting foreign direct investment (FDI) to India. While the effect size may be relatively small, the research suggests that tax treaties act as a facilitator for FDI inflows, particularly when considering the notable post-treaty increase in FDI from specific countries. These findings suggest that strategic implementation of tax treaties can be a valuable tool for emerging developing countries like India to enhance their attractiveness to foreign investors. Eric M Zolt (2018) also shows that DTTs fulfill the purpose of attracting FDI and those developing countries that have signed more DTTs with major capital exporting developed countries are likely to have received more FDI in return.

In Indonesia, it is indicated that avoiding double taxation treaties boosts foreign direct investment (FDI) into Indonesia (A. Rizky & C. Tjen, 2017). Furthermore, political circumstances, resource rent, and GDP per capita all influence FDI in Indonesia. The treaty on the avoidance of double taxation has been the primary factor influencing foreign direct investment (FDI) in Indonesia among these influencing factors.

In India, DTTs are increasing in numbers. They encourage and support seamless global trade and commerce activities (Nayaka & Basavaraj, 2021).

However, some research has shown arguments against tax treaties for developing countries. While some argue that tax treaties are necessary for attracting foreign investment and technology transfer in developing African nations, others express concerns about their true effectiveness (Chisa Onyejekwe, 2020). This skepticism stems from potential drawbacks, such as reduced tax revenue for developing countries due to limitations on their taxing rights (e.g., Uganda-Netherlands treaty) and vulnerabilities to tax avoidance schemes leveraged by multinational corporations (e.g., Saipem Contracting Nigeria Ltd vs FIRS case). This raises questions about the necessity of tax treaties for African development, the potential benefits of a multilateral treaty approach, and the viability of alternative methods for promoting foreign investment.

Another research taken by Julia Braun (2016) and Daniel Fuentes (2016) focusing on the case study of Austria’s double taxation treaty network indicates that negotiating a DTT with Austria is likely to have both good and negative effects on emerging nations. One way to look at it is that middle-income nations who sign a DTT with Austria could anticipate seeing more projects involving foreign direct investment from Austrian businesses. However, a review of the institutional context reveals that the signatory states might be negatively impacted by the restricted withholding taxation rights set forth in DTTs for the source nation, which could result in lower tax collections in developing nations.

While research conducted in Vietnam suggests that Double Taxation Treaties (DTTs) can offer certain benefits, it also acknowledges the potential drawbacks associated with their implementation. Studies by Dong (2019) and Anh D.Pham et al (2019), suggest that DTTs have a positive impact on foreign direct investment inflows to Vietnam. DTTs provide investors with greater tax certainty and reduce compliance costs, making Vietnam a more attractive investment destination. Studies by Hurrad et al (2021), suggest that DTTs can have a positive impact on FDI inflows to Vietnam by eliminate or reduce double taxation on income and capital gains earned by foreign investors, making Vietnam a more attractive investment destination provide investors with clear and predictable tax rules, reducing uncertainty and lowering compliance costs and signal to foreign investors that Vietnam is open to international business and willing to cooperate with other countries, fostering trust and confidence. However, the impact of DTTs on tax revenue is more nuanced. While DTTs can attract investment and potentially increase the tax base in the long run, they may also lead to foregone tax revenue in the short term, as some income may be taxed at a lower rate or even be exempt under the treaty provisions. Dong (2019) highlights the need for careful design of DTTs to balance the trade-off between attracting investment and protecting the tax base.

While various studies have demonstrated the effects of DTTs on the economic development of several countries, including Vietnam, a comprehensive assessment of the overall impact of DTTs on different aspects of the Vietnamese economy is still lacking – particularly in the context of global integration. Therefore, a thorough study is needed to examine DTTs' impact on different sectors and the overall economy, ultimately aiming to optimize their benefits for Vietnam. This would inform policy decisions, empower businesses, and increase public understanding.

3. Impacts of DTTs on Vietnam in the era of international integration

3.1. Vietnam's tax treaty signing situation

Vietnam has signed DTTs with over 80 nations since 1992, which is higher than the combined total of Laos, Myanmar, Cambodia, and the Philippines. These agreements, among other things, lower or completely do away with the taxes that citizens of other nations must pay in Vietnam and permit Vietnamese citizens to deduct taxes they have already paid from their domestic taxes (Action Aid, 2017).

According to the General Department of Taxation (the Ministry of Finance), the impacts of DTTs in Vietnam include: (a) exempting or reducing the tax payable in Vietnam for residents of the treaty country; or (b) crediting the tax paid by Vietnamese residents in the treaty country against the tax payable in Vietnam. Additionally, the agreement establishes a legal framework for cooperation and mutual assistance between the tax authorities of Vietnam and the tax authorities of other countries/territories in international tax administration to prevent tax evasion for taxes on income and assets.

Vietnam implements regulations to prevent double taxation on a broad range of income sources. This includes income generated from real estate holdings, business operations, international cargo transportation, dividends, loan interest, royalties, technical services, asset transfers, both independent and dependent personal services, directors' fees, artistic and athletic performances, pensions, government employment, income of students, interns, and vocational trainees, along with other income types. The application of these taxes generally aligns with the principles established in the UN and OECD model agreements (The Ministry of Finance). However, specific tax rates for each income category applied by Vietnam differ based on the relevant treaty partner country and adhere to the guidelines set forth by either the UN or OECD.

Beginning in the early 1990s, Vietnam actively negotiated and successfully concluded "the agreements for the avoidance of double taxation and the prevention of fiscal evasion concerning taxes on income" with a total of 77 countries and territories, of which 37 are in Europe, 21 in Asia - Pacific, 6 in the Americas (including the United States and Canada), 5 in Africa, and 8 in the Middle East. Vietnam recognized the necessity of bilateral and multilateral cooperation agreements in the context of economic renovation, also known as "Doi Moi" and the open-door policy. The two most significant regional markets that Vietnam is targeting are, as can be seen, Europe and Asia-Pacific.'

Table I. List of Vietnam's double taxation treaties with some countries around the world.

No.	Country	Signing date	Effective date
			Pre-Globalization
01	Australia	13/4/1992 Hanoi	30/12/1992
02	France	10/02/1993 Hanoi	01/07/1994
03	Thailand	23/12/1992 Hanoi	29/12/1992
04	Russia	27/5/1993 Hanoi	21/03/1996
05	Sweden	24/3/1994 Stockholm	08/8/1994
06	South Korea	20/5/1994 Hanoi	11/09/1994
07	UK	09/4/1994 Hanoi	15/12/1994
08	Singapore	DTA: 02/3/1994 Hanoi Protocol amending theDTA: 12/9/2012 Singapore	DTA: 09/09/1994 Protocol: 11/01/2013
09	India	07/9/1994 Hanoi Protocol amending the DTA: 03/9/2016 Hanoi	02/02/1995 Protocol: 21/02/2017
10	Hungary	26/8/1994 Budapest	30/06/1995
11	Poland	31/8/1994 Warsaw	28/01/1995
12	Netherlands	24/01/1995 Hague	22/10/1995
13	China	17/5/1995 Beijing	18/10/1996
14	Denmark	31/5/1995 Copenhagen	24/04/1996

No.	Country	Signing date	Effective date
15	Norway	01/6/1995 Oslo	14/04/1996
16	Japan	24/10/1995 Hanoi	31/12/1995
17	Germany	16/11/1995 Hanoi	27/12/1996
18	Romani	08/7/1995 Hanoi	24/04/1996
19	Malaysia	07/9/1995 KualaLumpur	13/08/1996
			Post-Globalization (1996)
20	Laos	14/01/1996 Vientiane	30/09/1996
21	Belgium	DTA: 28/02/1996 Hanoi Protocol amending theDTA: 12/3/2012 Hanoi	DTA: 25/06/1999 Protocol: Not effective
22	Luxembourg	04/3/1996 Hanoi	19/05/1998
23	Uzbekistan	28/3/1996 Hanoi	16/08/1996
24	Ukraine	08/4/1996 Hanoi	22/11/1996
25	Switzerland	06/5/1996 Hanoi	12/10/1997
26	Mongolia	09/5/1996 Ulan Bator	11/10/1996
27	Bulgaria	24/5/1996 Hanoi	04/10/1996
28	Italy	26/11/1996 Hanoi	20/02/1999
29	Belarus	24/4/1997 Hanoi	26/12/1997
30	Czech Republic	23/5/1997 Hanoi	03/02/1998
31	Canada	14/11/1997 Hanoi	16/12/1998
32	Indonesia	22/12/1997 Hanoi	10/02/1999
33	Taipei	06/4/1998 Hanoi	06/05/1998
34	Algeria	06/12/1999 Alger	Not effective
35	Myanmar	12/5/2000 Yangon	12/8/2003
36	Finland	21/11/2001 Hensinki	26/12/2002
37	Philippines	14/11/2001 Manila	29/9/2003
38	Iceland	03/4/2002 Hanoi	27/12/2002
39	DPR of Korea	03/5/2002 Pyong Yang	12/8/2007

No.	Country	Signing date	Effective date
40	Cuba	29/10/2002 La Havana	26/6/2003
41	Pakistan	25/3/2004 Islamabad	04/02/2005
42	Bangladesh	22/3/2004 Dhaka	19/8/2005
43	Spain	07/3/2005 Hanoi	22/12/2005
44	Seychelles	04/10/2005 Hanoi	07/7/2006
45	Sri Lanka	26/10/2005 Hanoi	28/9/2006
46	Egypt	06/3/2006 Cairo	Not effective
47	Brunei	16/8/2007 Bandar Seri Begawan	01/01/2009
48	Ireland	10/3/2008 Dublin	01/01/2009

Source: Viet Nam General Department of Taxation

According to Action Aid (2017), the majority of foreign direct investment providers have already signed tax treaties with Vietnam. In terms of the number of FDI projects and the amount of registered investment capital in Vietnam, these partners make up 91% and 84%, respectively. Out of the top 32 main contributors of foreign direct investment, 26 have signed tax treaties with Vietnam, and 10 have double taxation agreements in place from the 1990s, when Vietnam was just starting to draw in FDI.

With a few notable exceptions, Vietnam's treaties generally provide greater protection for its taxing rights than those of other emerging nations. When a nation has or has the authority to tax revenue of a foreign corporation or individual within its borders (source taxation) or to tax a resident's income while they are living overseas (residence taxation), a double taxation treaty is created.

The increasing trend in the source index indicates that Vietnam's tax treaties have grown more protective over time. Vietnam's ability to tax foreign investment is somewhat limited by several initial treaties signed in the 1990s, notwithstanding this overall trend. Vietnam and Singapore have negotiated a protocol to their tax treaty, which became active in 2013 and amended several restrictive terms. However, when it comes to Vietnam's tax treaties with high-income countries, the treaty with the United Kingdom is the most restrictive, with 0.16 points, followed by those with Singapore (0.18 points) and France (0.19 points).

In addition, the top four foreign direct investment suppliers to Vietnam—the Republic of Korea, Japan, Singapore, and Taiwan—have double taxation treaties with them that account for 25% of Vietnam's most restrictive treaties, each of which has a source index below 0.52.

3.2. Impacts of DTTs on Vietnam

3.2.1. Positive Impacts

Attracting FDI

Basically, Double Taxation Treaties (DTTs) can attract Foreign Direct Investment (FDI) in the following ways:

● *Reducing Tax Burden:* DTTs typically aim to eliminate or reduce double taxation, which occurs when a company's income is taxed by both its home country and the country where it operates. This can be a significant financial disincentive for foreign companies considering investing in another country. By eliminating or reducing this double taxation, DTTs make Vietnam a more tax-friendly destination for foreign investors.

● *Increasing Certainty and Predictability:* DTTs establish clear rules and procedures for how taxes will be applied to international business activities. This clarity and predictability can be crucial for foreign investors, as it helps them to understand their tax liabilities and make informed investment decisions.

● *Reducing Administrative Burden*: DTTs can streamline the tax filing process for foreign companies. By establishing clear rules and procedures, they can help to reduce the administrative burden and associated costs for foreign investors, making it easier for them to operate in Vietnam.

● *Improving Access to Capital:* DTTs can signal a country's commitment to foreign investment and create a more favorable investment climate. This improved perception can make it easier for foreign companies to secure financing from banks and other financial institutions, which can be crucial for funding their investments.

● *Signaling Effect:* Signing DTTs with major economies can be seen as a positive signal to other potential investors, indicating Vietnam's openness to foreign investment and commitment to international cooperation. This can attract investors who are looking for stable and reliable investment destinations.

In practice, Vietnam receives the majority of foreign direct investment (FDI) capital from DTT partners. Among the top 32 FDI suppliers to Vietnam, 26 have DTT agreements with Vietnam, with DTT partners accounting for 91% of the number of projects and 87% of the registered capital of projects by major FDI suppliers in Vietnam (in the first 7 months of 2023). Many of the top 10 FDI suppliers to Vietnam have had DTT agreements since the 1990s.

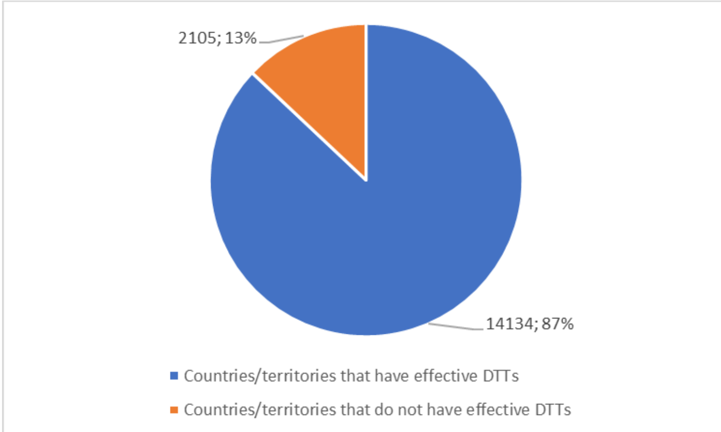

Figure I. FDI in Vietnam by country, newly registered capital (NRC) in first seven months of 2023 (million USD)

Source: Vietnam Briefing, 2023

Although this suggests that Double Taxation Treaties play a role in influencing foreign direct investment attraction, it's important to note that they are just one among various factors that contribute to the decision-making process for foreign investments. Other critical considerations include overall tax rates, legal frameworks, infrastructure quality, and the availability of skilled labor…

While some studies argue that double taxation agreements (DTAs) are beneficial, others raise concerns that these agreements could hinder foreign direct investment (FDI) by limiting tax avoidance strategies, such as profit shifting and treaty shopping. This concern stems from provisions within DTAs, like information exchange clauses, that aim to prevent tax evasion (Blonigen et al., 2014)

Improving protection for Vietnam's tax rights

With the signing of DTAs, Vietnam has made certain progress in protecting its taxing rights.

● *Clarifying Tax Responsibilities:* DTTs clearly define how different types of income (e.g., dividends, royalties, capital gains) will be taxed by both Vietnam and the foreign investor's home country. This reduces ambiguity and potential disputes over tax obligations, making it easier for Vietnam to enforce its tax laws.

● *Preventing Double Taxation:* DTTs typically aim to eliminate or reduce double taxation, where income is taxed by both Vietnam and the foreign investor's home country. This is achieved through mechanisms like Tax credits and Exemption method. By preventing double taxation, DTTs incentivize foreign investment by reducing the overall tax burden for foreign companies. However, it's crucial to ensure a fair balance between reducing double taxation and protecting Vietnam's tax base.

● *Negotiating Tax Rates:* DTTs allow Vietnam to negotiate tax rates with other countries for specific types of income. This enables Vietnam to have some control over the level of tax paid by foreign companies operating within its borders.

● *Information Exchange:* Many DTTs include provisions for information exchange between tax authorities of both countries. This allows Vietnam to access information about the financial activities of Vietnamese residents holding assets or earning income abroad, potentially helping to combat tax evasion and avoidance.

In practice, The ActionAid Tax Treaties Dataset, which assesses key aspects of 519 DTTs, assigned a 'Source Index' score between 0 and 1 to each treaty, where a higher score indicates that the developing country has retained more source taxation rights according to the treaty. In comparison to other developing nations, Vietnam's agreements generally offer greater protection for its taxing authority (0.56 in comparison with 0.45). Besides, Vietnam's DTTs with G20 members, on average, have a higher source index (indicating greater protection for Vietnam's right to tax) compared to many other developing nations. Over time, Vietnam's DTTs have progressively become more protective, with a consistent upward trend in the Source Index values of these agreements.

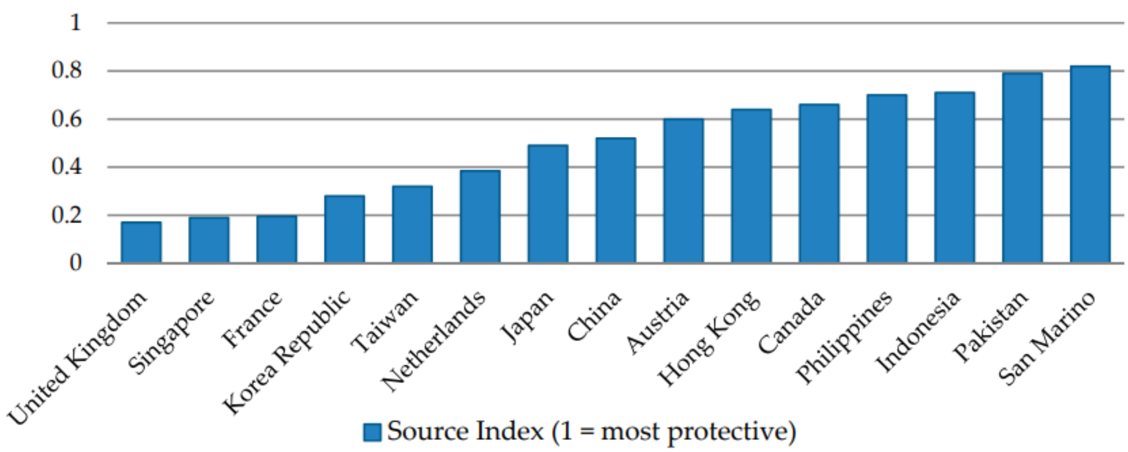

Figure II. Degree of protection of taxing rights of Vietnam against foreign companies in tax treaties

Source: The ActionAid Tax Treaties Dataset, 2016

Possessing dispute resolution mechanism

Growing international tax challenges heighten the risk of double taxation, where two jurisdictions may attempt to tax the same transactions or activities. Although double tax treaties are designed to address such issues, disputes can arise when interpretations or applications of treaty provisions differ between jurisdictions. While the OECD Model Tax Convention's Article 25 allows for a mutual agreement procedure (MAP) to resolve such disputes, its success has been limited. In response, a mandatory binding MAP arbitration provision (MBMA) has been developed within the Multilateral Instrument (MLI) to enhance the effectiveness and efficiency of the MAP process.

Vietnam, on February 9, 2022, signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (EY, 2022). Upon signing, Vietnam presented a compilation of 75 tax treaties involving Vietnam and other jurisdictions that it wishes to identify as Covered Tax Agreements . These are tax treaties intended for modification through the ML). Alongside the list of CTAs, Vietnam supplied a preliminary list of reservations and notifications regarding different provisions of the MLI. The final MLI positions will be disclosed once Vietnam formally deposits its instrument of ratification, acceptance, or approval of the MLI.

However, the number of cases that can take advantage of the dispute settlement mechanism is still very limited due to cumbersome and time-consuming procedures, as well as high filing costs for plaintiffs.

For enterprises

Double taxation treaties (DTTs) are crucial for businesses operating in the global economy. DTTs help to reduce the tax burden on businesses by providing relief from double taxation on income earned overseas. This can significantly reduce the cost of doing business internationally and increase profits.

For Vietnamese businesses, DTTs are particularly important. Vietnam has a relatively high corporate tax rate of 20%, which can be a significant disincentive to foreign investment. However, DTTs can help to reduce this tax burden by providing exemptions or reductions in withholding tax on dividends, interest, and royalties. For example, NTUC Income Insurance Co-operative Limited, a Singapore-based company, is exempt from corporate income tax in Vietnam under the DTT between Vietnam and Singapore, provided that it meets the conditions of not having a permanent establishment in Vietnam. Under the Agreement on Economic Partnership between Vietnam and Korea (DTA Vietnam - Korea), the corporate income tax rate has been reduced from 25% to 10% for income from exporting products to Korea.

3.2.2. Negative impacts

Reducing tax revenue

Due to the clear division of taxes, DTTs can limit taxes collected from foreign businesses operating in the country.. Limitations on source taxation apply to both parties involved in the treaty. However, when the flow of investment is predominantly one-sided (e.g., from a developed country to a developing one), these restrictions disproportionately impact the developing country partner.

An example of restrictive provisions is found in the 1994 Double Taxation Treaty (DTT) with Singapore, which prohibits Vietnam from taxing dividends of companies from Singapore, even if these companies generate income or profits from Vietnam. Another example is the DTT with the UK, where a UK company operating in Vietnam is only required to pay taxes in Vietnam if it has a 'permanent establishment' in Vietnam (and vice versa). However, the definition of 'permanent establishment' excludes businesses providing services and also facilities for the delivery and storage of goods (such as warehouses).

In practice, despite the upward trend of Vietnam, certain original treaties established in the 1990s exhibit a comparatively high level of restrictions on Vietnam's authority to tax foreign investments: UK stands out as the most restrictive, scoring 0.16 points, following closely are the treaties with Singapore - 0.18 points, France - 0.19. Notably, the DTTs with the primary four direct providers of Foreign Direct Investment (FDI) to Vietnam (Republic of Korea, Japan, Singapore, and Taiwan) fall within the most restrictive 25% of Vietnam's treaties, each having a Source Index lower than 0.5.

However, by applying the first main pillars of BEPS (Addressing the Profit Allocation and Nexus), Vietnam has also been able to reduce tax erosion to some extent by increasing tax fairness by ensuring MNEs pay taxes where they create value, reducing opportunities for tax avoidance through profit shifting and creating a stable and predictable international tax environment.

Increasing potential inequality

Among companies

Tax Breaks and Incentives: DTTs often contain provisions that offer tax breaks and other incentives to foreign investors. These benefits, such as lower tax rates or exemptions from certain taxes, can give foreign businesses a competitive advantage over domestic businesses operating in the same sector.

Unequal Application: Not all businesses have equal access to the benefits of DTTs. Only companies with foreign factors can truly benefit from the provisions in a DTT. This inherently disadvantages domestic businesses, which primarily operate within Vietnam. While DTTs focus on attracting foreign investment, they typically don't provide similar support or incentives for domestic businesses. According to statistics from the Vietnam White Book 2022, while the number of FDI enterprises is only 22,242, accounting for 3.3% of the total number of enterprises nationwide, they account for 28.1% of the total revenue of the entire enterprise sector. This shows that our country is heavily dependent on FDI enterprises and needs policies to increase competition for domestic enterprises.

For society

As mentioned earlier, tax exemptions and reductions for foreign businesses, as well as tax regulations in DTT, can lead to reduced tax revenue for the Vietnamese government. This decline in tax revenue can lead to a decline in public services like health and education. These services enable the poor, women and girls to participate in Vietnam's development and to enjoy their fundamental human rights (ActionAid, 2016).

Evading tax

Double tax treaties themselves do not directly cause tax evasion. Their primary purpose is actually to prevent double taxation. However, certain aspects of double tax treaties can be misused to facilitate tax evasion in some cases.

Treaty Shopping: This involves individuals or companies establishing themselves in a country with a more favorable tax treaty solely to avoid paying taxes in their resident country. This can involve setting up shell companies or using complex ownership structures to exploit loopholes in the treaties.

Transfer Mispricing: This refers to the manipulation of prices for goods and services traded between related companies in different countries. Alongside the preferential treatment brought by tax treaties, some accounting adjustments by foreign-invested enterprises, for instance, increasing input costs and/or lowering export revenues, may result in the 'import dominance' effect and net losses in business. Under these circumstances, enterprises have benefited from 'double non-taxation'. (Anh D. Pham et al, 2019)

Time	Percentage of Enterprises Raising Investment Capital	Percentage of Enterprises with Increased Labour Force	Percentage of Enterprises Reporting Profits	Percentage of Enterprises Reporting Losses	Average Total Revenue (Millions of USD, Constant 2010 Prices)	Average Total Cost (Millions of USD, Constant 2010 Prices)
2011	4.8	28.4	57.7	24.8	1.36	1.08
2012	5.2	31.0	60.4	27.5	1.54	0.97
2013	5.1	30.0	63.6	24.1	1.45	0.94
2014	16.1	62.4	57.9	34.2	1.14	0.71
2015	11.4	62.4	55.1	37.6	0.69	1.42
2016	11.0	63.3	59.0	33.4	0.73	0.49

Table 2. Business performance of foreign direct investment (FDI) enterprises in Vietnam, 2011-2016

Source: Vietnam Chamber of Commerce and Industry (VCCI)

In the period from 2014 to 2022, more than 30 percent of foreign direct investment enterprises in Vietnam reported losses (up to 43,4% in 2020, according to GSO in 2022). However, they still recorded increased investments and poured additional capital into the country. These could be signs indicating the exploitation of gaps in double tax treaties for the purpose of tax evasion. However, as mentioned earlier, compared to many countries in the region, Vietnam's agreements generally offer greater protection for its taxing authority. Additionally, Vietnam has implemented measures to combat tax erosion and participated in the Inclusive Framework (IF) in 2017, committing to fully implement measures related to Base Erosion and Profit Shifting (BEPS) with the goal of preventing tax evasion in general and the abuse of DTTs in particular (Vietnam Ministry of Finance, 2018)

In addition, according to Coupe, Orlova, and Skiba (2008), DTTs have little effect on foreign direct investment (FDI) whereas bilateral investment treaties (BITs) have a favorable effect. They provide proof that signing DTTs has no impact and that signing BITs with OECD nations will increase FDI inflows.

Negative impacts on enterprises

Double taxation treaties play a pivotal role in shaping the global economic landscape by mitigating the adverse effects of dual taxation. Prior to the establishment of these agreements, businesses grappled with intricate administrative procedures and protracted settlement timelines, which invariably impeded their operational efficiency. The resultant strain on performance was palpable.

The primary objective of DTT is to prevent the unjust imposition of taxes on the same income source by multiple jurisdictions. While this noble intent is commendable, the practical implementation of treaty-related procedures can inadvertently burden businesses with additional costs. The complexity of compliance further compounds matters, as the provisions within these agreements occasionally lack clarity. Consequently, businesses encounter challenges in accurately assessing and fulfilling their tax obligations.

Moreover, the competitive landscape undergoes transformation due to these treaties. Corporate income tax policies, once a strategic advantage for businesses operating in specific jurisdictions, lose their discriminatory edge. As the playing field levels, organizations must recalibrate their business strategies to navigate this altered landscape effectively. Adaptation becomes imperative, as the absence of tax arbitrage necessitates innovative approaches to maintain competitiveness.

While double taxation avoidance agreements alleviate the burden of dual taxation, their implementation introduces complexities and necessitates strategic adjustments. Enterprises must vigilantly adhere to regulatory frameworks to avoid violations and remain agile in a dynamically evolving global tax environment.

4. Recommendations for enterprises in the era of international integration

Based on the analysis of DTTs and their impact on enterprises in Vietnam, there are several effective approaches for enterprises to navigate the challenges and opportunities presented in the international integration era.

Know how taxation policies work.

Enterprises have to know the provisions and implications of taxation policies, DTTs in particular. Such knowledge will help them to maximize the tax exemptions and benefits that come with DTTs, thereby increasing their competitiveness in the global market. For instance, Vietnam utilizes either the OECD Model Tax Convention or the UN Model Convention as guiding principles for its tax treaties. By becoming familiar with these conventions, enterprises can adjust their tax strategies and get used to the new laws to reduce possible risks and maintain tax planning. There are several reliable sources and channels that firms in Vietnam can refer to, including the Vietnam Chamber of Commerce and Industry (VCCI) website, the Ministry of Finance of Vietnam website, the EY website, and research papers published by Action Aid.

Expand international operations

Enterprises should not limit themselves to only one country if they intend to fully optimize the benefits of DTTs. Through their presence in different jurisdictions, corporations can reduce the risk of double taxation and achieve maximum tax efficiency. For example, the 1994 Double Taxation Treaty (DTT) with Singapore prohibits Vietnam from taxing the dividends of companies from Singapore, even if they generate income or profits from Vietnam. By expanding operations to countries with favorable DTT provisions, enterprises can benefit from reduced tax burdens and maintain tax efficiency.

Consider multiple factors in investment decision-making.

Enterprises should therefore consider several things in addition to DTTs when making investment decisions, e.g., tax rates, legal frameworks, quality of infrastructure, and availability of skilled labor. By assessing the broader business environment, enterprises can make informed investment decisions that align with their strategic objectives and maximize opportunities for international integration. Specifically, lower tax rates, a stable and transparent legal framework, well-developed infrastructure, and the availability of skilled labor will impact the overall return on investment.

5. Research limitations

This paper offers a general overview of Double Taxation Treaties (DTTs) and their impact on Vietnamese businesses, but limitations exist. It lacks specifics on the individual impacts of each DTT on different sectors and business types, requiring further research to assess their varied effects. Additionally, while proposing solutions for competitiveness, the suggestions remain broad. Future research should focus on: 1) examining the specific impact of each DTT and 2) developing more concrete policy recommendations for Vietnam to optimize the benefits of DTTs.

6. Conclusion

In conclusion, the impacts of Double Taxation Treaties (DTTs) on Vietnam are considerable, particularly in attracting Foreign Direct Investment (FDI) and promoting trade developments. DTTs have also played a crucial role in reducing the tax burden for foreign companies and making Vietnam a more tax-friendly destination. By eliminating or reducing double taxation, DTTs have increased certainty and predictability for foreign investors, reduced administrative burdens, and improved access to capital. Accordingly, entering into DTTs with large economies, Vietnam has demonstrated its ambitions to attract foreign investment and to open up to international cooperation.

Although DTTs have numerous advantages, some problems need to be addressed. The reduction of tax revenues due to DTTs could impact the government's ability to invest in essential public services, potentially exacerbating existing inequalities. It is crucial to strike a fair balance between reducing double taxation and protecting Vietnam's tax base.

Therefore, in the era of international integration, firms need to understand how DTTs work and the provisions they entail. Knowledge of the implications of DTT enables enterprises to maximize tax exemptions and benefits, thus increasing their competitiveness in the global market. Enterprises should also consider expanding their operations to countries with favorable DTT provisions to achieve maximum tax efficiency. They should consider multiple factors such as tax rates, legal frameworks, and market conditions. By having a comprehensive understanding of DTTs and considering various factors, enterprises can navigate the complexities of international taxation and optimize their tax planning strategies.

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