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## TAX BULLETIN November 2023

### 1. Vietnam's National Assembly has officially passed VAT reduction extended to June 2024 and a Resolution on applying additional corporate income tax in line with the Global Anti-Base Erosion Rules (global minimum tax) as of 1st January 2024

#### ➤ VAT reduction

According to the Resolution of the 6<sup>th</sup> Session of the 15<sup>th</sup> National Assembly, the National Assembly agreed to extend the 2 per cent VAT reduction from 1<sup>st</sup> January 2024 to 30<sup>th</sup> June 2024. Accordingly, VAT rate of 8% will be applied to goods and services specified in Point a, Section 1.1, Clause 1, Article 3 of Resolution No. 43/2022/QH15 that are currently subject to VAT rate of 10%, except for telecommunications, information technology, finance, banking, securities, insurance, real estate, metals and metal products, mining, refined petroleum, chemicals, and items subject to excise tax.

#### ➤ Global minimum tax

The Resolution on the application of Global minimum tax includes 8 Articles and 1 Appendix. Below are significant points in the Resolution:

- ❖ In-scope taxpayers: Vietnamese subsidiaries of multinational enterprises (“MNE”) whose foreign Ultimate Parent Entity (“UPE”) or Vietnamese UPE has revenue in its consolidated financial statement of at least EUR 750 million in at least two of the four fiscal years immediately preceding the fiscal year under review.
- ❖ The application of Global minimum tax is regulated in the Resolution as follows:
  - Qualified Domestic Minimum Top-Up Tax (QDMTT) will be applied to Vietnamese subsidiaries of multinational enterprises doing business in Vietnam in the fiscal year.
  - Income Inclusion Rules (IIR) will be applied to Vietnamese UPE or intermediate parent company or partially owned parent entity located in Vietnam that owns (directly or indirectly) in a low-taxed subsidiary according to Global minimum tax policy at any time during the fiscal year.
- ❖ The minimum tax rate stipulated in the Resolution is 15%. In-scope taxpayers are required to submit to the tax authority: Information declaration on Global minimum tax and Additional CIT declaration (QDMTT or IIR return) with explanation of differences due to the gap between financial accounting standards. The deadlines for additional CIT declaration and payment are as follows:
  - In-scope taxpayers must submit a QDMTT return and pay tax within 12 months of the fiscal year end;
  - In-scope taxpayers shall submit an IIR return and pay tax within 18 months of the fiscal year end for the 1<sup>st</sup> year and 15 months for the next years.

The Ministry of Finance is urgently developing a Decree to provide the guidelines for the implementation of the Resolution on Global minimum tax to ensure full legal basis and consistency with the provisions of the Resolution.

In this session, the National Assembly agreed to the policy and assigned the Government in 2024:

- to develop a draft decree on the establishment, management and use of investment support funds from global minimum tax revenue and legal sources. other to stabilize the investment environment, encourage the attraction of strategic investors, multinational corporations and support domestic enterprises in some areas that need investment encouragement.
- to develop a draft law on amendment of Corporate Income Tax to add to the 2024 law and ordinance development program so that Global minimum tax policy can be applied from the fiscal year of 2025 to ensure that taxing rights on taxable payments below Vietnam's minimum tax rate under global minimum tax regulations.

## **2. Exchange rate applied for foreign contractor tax (FCT) purpose (Official letter No. 4666/TCT-CS dated 23<sup>rd</sup> October 2023 of General Department of Taxation)**

Regarding the issue, General Department of Taxation provide guidance to Large Taxpayer Unit as follows:

According to Point 1.3, Clause 1, Article 69, Circular No. 200/2014/TT- BTC (which was supplemented, amended in Clause 3, Article 1, Circular No. 53/2016/TT-BTC), for purposes of accounting record, preparing and presenting the financial statement in case where an enterprises pays the foreign contractor tax on behalf of a foreign contractor, the enterprises should determine whether the contract value is inclusive or exclusive of FCT in order to determine the relevant exchange rate. In particular:

- In case where FCT is a receivable of the enterprise in Vietnam, the actual exchange rate will be the buying rate announced at the transaction time by the commercial bank nominated by the enterprise.
- In case where FCT is calculated into the value of asset or purchase cost from the foreign contractor and not to be paid immediately, the actual exchange rate will be the selling rate announced at the transaction time by the commercial bank at which the enterprise intends to perform the transaction.
- In case where FCT is calculated into the value of asset or purchase cost from the foreign contractor and to be paid immediately in a foreign currency, the actual exchange rate is the buying rate announced by the commercial bank at which the enterprise makes the payment.

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**3. Invoicing for a payment discount (Official letter No. 4701/CTBNI-TTHT dated 29<sup>th</sup> September 2023 of Bac Ninh Tax Department)**

It is provided in a trading contract signed between the Company and a foreign client that if the foreign client makes the payment early, 2% discount will be applied. In this case, such a discount will be determined as a payment discount. The Company is not required to issue an invoice for a payment discount.

In case the foreign client deducts 1.25% value of exported goods for purpose of introduction of Company's products to foreign market, such a deduction is not considered as a payment discount or trade discount.

**4. Tax treatment on samples sent for quality inspection purposes (Official letter No. 23683/CTBDU-TTHT dated 10<sup>th</sup> September 2023 of Binh Duong Tax Department)**

In case due to special characteristics of electric cable business, the Company has to send samples for quality inspection purposes in accordance with provisions of law to obtain the quality certificate for its clients or to self-conduct quality inspection under the claim about the product quality from its clients, upon sending the samples the Company must issue invoice in accordance with provisions in Clause, 1 Article 4, Decree No. 123/2020/NĐ-CP dated 19<sup>th</sup> October 2020 of Government. All the cost relating to the samples sent for quality inspection purposes will be deductible for CIT purpose provided that the conditions as provided for in the Clause 4, Article 10, Circular No. 96/2015/TT-BTC dated 22<sup>nd</sup> June 2015 of Ministry of Finance are met in full.