

Global Minimum Tax

A New Era for Taxation in Vietnam

December 2023

On 29 November 2023, the National Assembly of Vietnam passed the Resolution on the Global Minimum Tax (**GMT Resolution**) with a near-unanimous approval (462/463). The GMT Resolution will take effect from 1 January 2024. We would like to present you with the key highlights of the GMT Resolution.

Under the GMT Resolution, a Taxpayer is defined as a constituent unit of a multinational enterprise (**MNE**) with EUR750 million in consolidated revenue in two of the four consecutive years preceding the year where the tax liabilities were accrued, except in certain cases according to the regulations. The minimum tax rate is 15%.

The GMT Resolution adopts the two concepts of the Income Inclusion Rule (**IIR**) and the Qualified Domestic Minimum Top-up Tax (**QDMTT**) which was introduced in the draft resolution prepared by the Ministry of Finance and released for public consultation earlier in July 2023. The IIR regulations apply to (i) ultimate parent companies, (ii) partially owned parent companies, or (iii) intermediate parent companies in Vietnam that are constituent units of the MNEs, which hold direct or indirect ownership of a low-tax foreign constituent entity under the global minimum tax regulations at any time during the financial year. On the other hand, the QDMTT applies to the constituent units or groups of constituent units of the MNEs, which have production or business activities in Vietnam during the financial year.

For reporting purposes under the GMT Resolution, the relevant taxpayers are generally required to prepare and submit two prescribed forms which are (i) the Information Declaration Form under the global minimum tax regulations and (ii) the additional Corporate Income Tax Declaration Form accompanied by an explanation note explaining any differences due to the discrepancy between applicable accounting standards. Further guidance from the relevant authorities is expected to be provided in the future with respect to the completion of these prescribed forms.

The deadline for tax declaration and tax payment are (i) 12 months after the end of the fiscal year applicable to the taxpayer who is

qualified for QDMTT regulations, and (ii) 18 months after the end of the fiscal year for the first year (and 15 months after the end of the fiscal year for the following year) applicable to the taxpayer who is qualified for the IIR regulations.

According to 2022 Corporate Income Tax finalisation data, the Ministry of Finance preliminarily estimates that there are approximately 122 MNEs investing in Vietnam that will be affected by the QDMTT regulations whereby the estimated additional tax collected is approximately VND14,600 billion.

During the discussion session for the approval of the GMT Resolution, several alternatives to the current tax incentives (including cash incentives and the establishment of an incentive fund for high-tech companies) were brought forward for discussion to maintain Vietnam's status as an attractive investment destination for foreign investors. We note that the Government and the relevant Ministries are assigned and instructed by the National Assembly to research and take necessary actions to implement the GMT Resolution. According to the Ministry of Finance, the General Department of Taxation is urgently drafting a guiding decree providing detailed guidance for the implementation of the GMT Resolution.

Please look forward to our future updates on the developments with respect to the implementation plan of the GMT Resolution.

Authors



Mark Fraser
Managing Partner
mark.fraser@frasersvn.com



Phan Xuan Qui
Head of Tax
qui.phan@frasersvn.com



Dang Dinh Duc
Associate
duc.dang@frasersvn.com

Ho Chi Minh City

19th Floor, Deutsches Haus
33 Le Duan Boulevard, District 1
Ho Chi Minh City, Vietnam
T: +84 28 3824 2733

Hanoi

12th Floor, Pacific Place
83B Ly Thuong Kiet Street, Hoan Kiem District
Hanoi, Vietnam
T: +84 24 3946 1203

Website www.frasersvn.com
Email legalenquiries@frasersvn.com

This material provides only a summary of the subject matter covered, without the assumption of a duty of care by Frasers Law Company. The summary is not intended to be nor should be relied on as a substitute for legal or other professional advice.

© Copyright in this article is owned by Frasers Law Company