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Global Minimum Tax: Implications for FDI in Vietnam

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In 2013, the Organisation for Economic Co-operation and Development (OECD) introduced the Global Minimum Tax (GMT) rate, which has been agreed upon by 142 countries and is to be officially implemented from 1 January 2024. The GMT is a measure to tackle domestic tax base erosion and profit shifting (BEPS), which is essentially the act of tax avoidance by exploiting the benefits of tax advantages under developing jurisdictions. The GMT rate is set at 15%, which implies that once it is in force, the businesses that currently benefit from advantageous tax rates in Vietnam may have to pay additional tax.

Over the years, Vietnam has utilised its low tax rates to entice international investment. Nevertheless, the GMT will have an impact on many significant multinational enterprises (MNEs). The GMT policy will generally affect MNEs with EUR750 million in consolidated revenue in two of the four consecutive years preceding the year where the tax liabilities were accrued. These businesses now benefit from favourable corporate income tax rates, which can range from 5% to 10% depending on the region, industry, size, and investment sector.

According to the report on the impact of GMT in Vietnam issued by the Ministry of Finance (MOF), as of 17 March 2023, there have been 335 foreign direct investment (FDI) projects with registered investment capital of above USD100 million operating in manufacturing and processing industry located in industrial zones, which enjoy an advantageous tax rate below 15%. Although those only account for 1% of the number of the projects, their total investment capital accounts for 30% of the total FDI in Vietnam of approximately USD131.3 billion. From a preliminary assessment of the General Department of Taxation of Vietnam (GDT), there will likely be 122 MNEs invested in Vietnam that will be affected by the GMT policy when it comes into effect from 1 January 2024.

The Ministry of Finance is preparing a draft resolution on the Global Minimum Tax policy to submit to the Vietnamese National Assembly (Draft Resolution). On 25 July 2023, the Draft Resolution was released for public comments. The Draft Resolution introduces two new concepts, the Income Inclusion Rule (IIR) and the Qualified Domestic Minimum Top-up Tax (QDMTT) to the current taxation regime. It is likely that the Draft Resolution will be effective from 2024 until it is replaced by the Law on Corporate Income Tax (amended), i.e., this resolution will supplement the current Law on Corporate Income Tax with respect to the IIR and QDMTT.

We note that the Draft Resolution is an initial draft and will be subject to changes and finalisation after public consultation before submission to the National Assembly.

Please look forward to our future updates on the developments with respect to the Draft Resolution.

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