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Draft resolution on Global Minimum Tax policy in Vietnam issued for public consultation

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At a glance..

The Ministry of Finance is preparing a draft resolution on Global Minimum Tax policy to submit to the Vietnamese National Assembly. On 25 July, a draft resolution was released for public comments.

By way of background, under the BEPS Pillar 2 model issued by the OECD, each in-scope multinational enterprise should pay a minimum effective tax rate of 15% on profits in each of the jurisdictions where they operate.

The draft resolution provides insights into the implementation of Global Minimum Tax policy in Vietnam. This is proposed to take effect from 1 January 2024.

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In details...

The draft resolution follows the guidance issued by the OECD under the Pillar 2 model rules and proposes two main rules (i) Qualified Domestic Minimum Top-Up Tax ("QDMTT") and (ii) Income Inclusion Rules ("IIR").

Both rules are intended to protect Vietnam's tax revenue in the context of Pillar 2 global implementation. The QDMTT rule targets foreign inbound investment while the IIR targets Vietnam's outbound investment. The key proposals are summarized below.

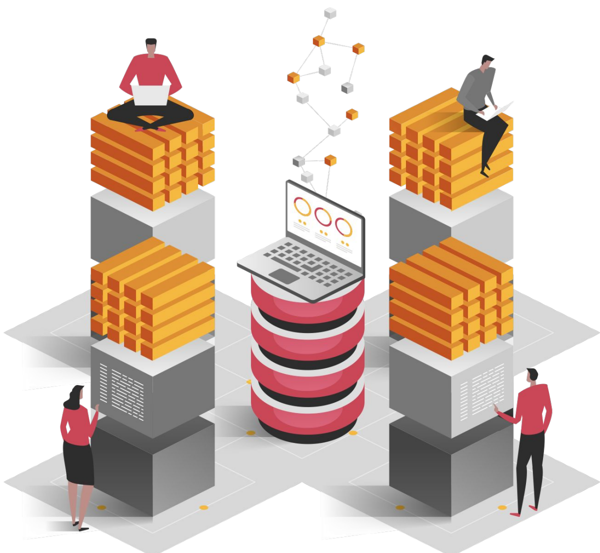
	QDMTT	IIR
In-scope taxpayers	Vietnamese subsidiaries of multinational enterprises ("MNE") whose foreign Ultimate Parent Entity ("UPE") has revenue in its consolidated financial statement of at least EUR 750 million in at least two of the four fiscal years immediately preceding the fiscal year under review.	Vietnamese UPE or intermediate parent company or partially-owned parent entity located in Vietnam that owns (directly or indirectly) in a low-taxed subsidiary at any time during the fiscal year and 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.
How it works	• In-scope taxpayers shall pay a top up tax equal to the top-up tax percentage (15% minus the group effective tax rate of all constituent entities in Vietnam) multiplied by the excess profit for each fiscal year. • The calculation of Global Anti-Base Erosion ("GloBE") Income, excess profit and effective tax rate in Vietnam is determined by reference to all constituent entities, regardless of their profit or loss position, following the OECD's GloBE rules. • The QDMTT is nil if GloBE revenue of all constituent entities is less than EUR 10 million and their GloBE Income/Loss is a loss or less than EUR 1 million in the fiscal year .	In-scope taxpayers shall pay tax in an amount equal to their allocable share of the top-up tax of that low-taxed constituent entity for the fiscal year.

In details...

	QDMTT	IIR
Specific Vietnamese tax return obligation	● In-scope taxpayers must submit a QDMTT return and pay tax within 12 months of the fiscal year end; ● If the MNE has more than one constituent entity in Vietnam, the MNE must nominate one entity to pay the QDMTT in Vietnam within 30 days of the fiscal year end. Otherwise, the Vietnamese tax authority will assign the responsibility to one constituent entity of such MNE within the 30 days of the MNE missing the above deadline.	In-scope taxpayers shall submit an IIR return and pay tax within 15 months of the fiscal year end

PwC Vietnam's observations

- MNEs should evaluate whether they will be in-scope taxpayers in Vietnam.
- The draft resolution authorises the Government to work with taxpayers if such taxpayers seek protection of their tax incentives in accordance with investment regulations.
- QDMTT and IIR return forms are not included in the draft resolution yet. We expect Vietnam will refer to the GloBE information return guidance and template recently published by the OECD.
- The effective date of the Resolution is proposed to be 1 January 2024. Though this effective date is quite close, in-scope taxpayers likely will have a one year window until the tax return deadlines to understand the implications of the Resolution for their tax positions and address the policy accordingly.



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