LEGAL UPDATE

DRAFT LAW TO AMEND SEVERAL TAX LAWS

Last year the Ministry of Finance (**MOF**) announced the new draft law on simultaneous amendments of several tax laws (**Draft Law**), including the Law on Value-Add Tax (**Law on VAT**), the Law on Special Consumption Tax (**Law on SCT**), the Law on Corporation Income Tax (**Law on CIT**), Law on Personal Income Tax (**Law on PIT**) and the Law on Natural Resource Tax (**Law on NRT**). The Draft Law, once ratified, shall come into effect on 1 January 2019.

The proposed legislative changes aim to:

- bring the laws in line with international practice;
- make global integration easier and achieve the economic growth goals; and
- bring state budget revenues and expenditures in balance, especially in light of entering into force of upcoming free trade agreements.

It is important to note that the Draft Law is still in the stages of finalisation. Therefore, key changes as highlighted below may be further revised, and further guidance will be needed from the relevant authorities of Vietnam.

We set out below the key changes in the Laws on VAT, SCT, CIT and PIT.

1. Law on VAT

The most notable changes will be the increase of the standard VAT rate from 10% to 12% per 1 January 2019. The preferential VAT rate of 5% applicable to a limited group of products such as goods essential for agriculture, medicine, education, science and technology) will be increased to 6%. There might be a further increase of 2% to 14% per 1 January 2021.
Further to this, a wider range of goods and services will be subject to VAT as some goods and services would be moved from VAT exempt to taxable at 6% VAT or the standard (12%) VAT rate. For example, fertilisers, agricultural machinery, offshore fishing boats and land use right transfer would no longer qualify for VAT exemption.

In addition, the regulatory requirements for VAT refund are likely to be tightened under the Draft Law. For example, for a purchase of VND 10 million or more to be eligible for a VAT refund, the purchase needs to be paid by bank wire transfer or via a cash point, so in other ways than cash.
As a new incentive, the Draft Law allows businesses manufacturing goods or providing services subject to the 6% VAT rate, to apply for VAT refund within 12 consecutive months or 4 consecutive quarters for their accumulated input VAT credit.

2. Law on SCT

2.1 Beverages and cigarettes/cigars

Soft drink fans will feel the effect as the government intends to make them more expensive by imposing a 10% SCT on carbonated and non-carbonated soft drinks, energy drinks, bottled instant tea and coffee (except for fruit juice, natural vegetable drinks, milk, and milk products).
The government also proposes increasing SCT on cigarettes and cigars to 75% in 2019 from the current 70% and may add a fixed SCT charge of VND1,000 per pack of 20 cigarettes and VND1,500 per cigar in 2020.

2.2 Passenger vehicles

Another point of the amended SCT is likely to impact the assemblers and manufacturers of passenger vehicles of 9 or less seats. They will be incentivised to increase the localisation rate of the parts of their automobiles, because under the Draft Law, the SCT taxable price of those vehicles will exclude the local value.
Exemption of SCT for local parts of vehicles is considered as one of the government's key policy measures to support local automakers in the competition against imported vehicles when import tariffs are slashed to zero in 2018.

3. Law on CIT

3.1 Small and medium enterprises

Some important changes in CIT rates are foreseen for small and medium enterprises (**SMEs**). Depending on the turnover of the SME the tax rate will be between 15% and 17%, unless there is a holding-subsidiary company model where the holding company holds an equity of at least 25% in the SME.

3.2 Tax reduction

Rules on tax deductions are also likely to be changed:

a. Gains from transfer of real estate, transfer of investment projects, and transfer of rights to participate in investment projects may be offset by losses from other non-incentive business activities of a company;

b. Uncredited input VAT ineligible for refund will be deductible for CIT calculation purposes;

c. Interest expenses will no longer be deductible for:

   i. manufacturing companies with a debt to equity ratio exceeding 5:1;

   ii. similar ratios of 4:1 and of 12:1 are likely to be applied to other industries and the banking sector respectively.

d. Like for VAT, the cap of non-cash requirement for CIT deductibility will be lowered to VND 10 million from the current VND 20 million.

3.3 Incentives

Taxpayers in economic zones located in favoured socio-economic areas will no longer be entitled to 10% CIT incentive rate for 15 years. On the other hand, software companies might be eligible for this incentive if their products are those encouraged by the government.

4. Law on PIT

4.1 Capital assignments

Both residents and non-residents will pay the same PIT for income from capital assignment at 1% of gross sales proceeds instead of the 20% on capital gains under the current law, regardless of whether the assignment is made in Vietnam or overseas. Transfer of securities will still be taxed at 0.1% of the sales proceeds.

4.2 Reduction of tax brackets and tax rate

The Draft Law will propose new progressive tax brackets for employment income and reduce the number of progressive tax brackets from 7 to 5. Except for the income level of over VND80 million per month, the tax rate will also be reduced by between 2% and 10%.

Skilled workers in the IT industry, agriculture, and agricultural product processing projects are likely to be happy once the Draft Law comes into effect, as PIT on their employment income will be reduced by 50%.

4.3 Prizes

The flat PIT rate of 10% imposed on income from winnings or prizes will be replaced by the following progressive rates:

Taxable income (in VND)	Tax rate (in %)
0 to 5 billion	10
5 to 10 billion	20
more than 10 billion	30

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