**GLOBAL MINIMUM TAX: OPPORTUNITY OR CHALLENGE?**

1. **Legal basis**
* Base erosion and profit shifting – BEPS;
* Decision on the issuance of the organization and operation regulations of the Prime Minister’s Special Task Force for researching and proposing solutions related to the global minimum tax rates of the OECD on April 14, 2023; and
* Resolution No. 115/NQ-CP on the thematic meeting on law making in July 2023 dated July 28, 2023.
1. **Reasons for the Emergence of Global Minimum Tax**

The Global Minimum Tax (“**GMT”**), also known as the Minimum Corporate Income Tax, is one of the two crucial pillars of the “*Base Erosion and Profit Shiftin*g” action plan by the Organization for Economic Cooperation and Development (OECD). Under the GMT framework, a tax rate of 15% will be applied to multinational enterprises with global revenues of at least 750 million EUR (800 million USD) in at least two of the four most recent consecutive years.

According to information from the General Department of Taxation, Vietnam currently has over 36,500 investment projects with a total capital of foreign investors reaching 435 billion USD. Based on preliminary assessments by the Tax Department, approximately 1,017 organizations[[1]](#footnote-1) within the network of multinational corporations investing in Vietnam will be subject to the impact of the GMT.

Lack of prompt policy responses might result in state budget revenue losses that could total tens of billions of Vietnamese Dong due to the significant number of enterprises that GMT is expected to affect. Faced with such opportunities and challenges, the Government issued Resolution 115/NQ-CP in 2023 regarding a specialized session for law construction on July 28, 2023. Accordingly, the Government has instructed the Ministers of relevant Ministries, the Heads of equivalent agencies, and government bodies to urgently conduct research and provide direct input into the Proposal and Draft Resolution of the National Assembly regarding the application of the GMT, as well as other mechanisms and policies to support tax-exempt investors. These inputs are to be submitted to the Ministry of Finance, the Ministry of Planning and Investment, and the Ministry of Finance by July 28, 2023.

Through its transfer pricing initiatives, GMT not only aids in preventing revenue loss but also reduces tax fraud by Vietnamese companies. Transfer pricing is pricing the products, services, and assets that economic entities with connected relationships or shared interests trade differently from market prices. This method aims to move income from high-tax areas to low-tax ones to minimize overall tax obligations and maximize post-tax earnings. For instance, Coca-Cola Vietnam was formerly listed by the Ho Chi Minh City Tax Department as the top corporation suspected of using transfer pricing because of its years-long pattern of losses despite remaining in business and increasing production in Vietnam.

Thus, implementing the GMT may help Vietnam reduce ambiguous transfer pricing techniques, improving fairness in tax operations and maximizing taxation for both the country and enterprises. Additionally, it can assist in recovering lost tax money.

1. **Opportunities for Vietnam**
2. **Opportunity to Enhance the Legal System**

Participating in GMT presents a significant opportunity for Vietnam to reform its tax system. This will enable the country to align with and adapt to international tax standards, creating favorable conditions for enhancing tax transparency and efficiency in corporate income taxation.

Additionally, this possibility necessitates the modernization and enhancement of Vietnam’s tax management and information systems. As a result, the tax-collecting process will be more transparent, corporate compliance will increase, and tax authorities will be better equipped to detect and collect taxes. Vietnam now has the chance to improve tax administration, reduce tax evasion, and stop tax fraud..

1. **Opportunities for a Healthy Investment Environment**

Furthermore, participation in GMT provides a good chance for Vietnam to revise its foreign direct investment (“**FDI**”) policy. Instead of depending primarily on tax breaks, Vietnam may focus on luring FDI projects in a completely new and different method than in the past. This entails enhancing the investment and business climate, reducing risks, and establishing more favorable and transparent circumstances in investment attraction policies. As a result, we can support long-term development and provide value to the Vietnamese economy.

1. **Challenges for Vietnam and Proposed Recommendations**
2. **Challenges for Vietnam**

Besides the above opportunities, the application of the GMT also has challenges, such as (i) affecting the operations of multinational corporations, although the level of this influence depends on the characteristics of each government corporate income tax system, and (ii) reducing short-term competitiveness for developing countries, especially those that mainly rely on tax incentives to attract FDI capital.

The tax incentive is always one of the crucial factors in maintaining large-scale production in Vietnam because corporations often consider the ability, cost, and efficiency of other countries to decide whether to invest capital and output[[2]](#footnote-2). Over the years, the tax incentive race to attract FDI has become popular in ASEAN. “For example, in 2001, to attract Canon, Vietnam proposed to exempt corporate income tax for ten (10) years, then the Philippines proposed to increase the applied times up to 8-12 years; in 2014, when Indonesia applied a 10-year corporate income tax exemption for Samsung, Vietnam offered the same with the applied period up to 15 years[[3]](#footnote-3).”. Therefore, policy changes and concerns about the retroactivity of Vietnamese law regarding the collection of preferential tax amounts become the key factors that prevent these investors from continuing to pour capital into Vietnam.

Vietnam is currently confronting the need to expeditiously implement policies to attract capital after applying the GMT. This task is particularly demanding, especially in the context that other countries in the Developing bloc are also urgently establishing new institutions to compensate businesses. For example, Thailand has enacted a policy to assist with electricity bills, while Singapore is preparing to introduce a domestic tax supplement to refine the corporate tax framework. Given that there is less than a year until the GMT comes into force, amending laws can be a protracted process, and identifying solutions that align with GMT regulations can be a formidable undertaking.

1. **Predictions and Recommendations**

The GMT is an irresistible trend, but its subjects are limited to large enterprises. Meanwhile, there are many small enterprises that possess technology that could contribute to Vietnam’s technological advancement despite not having a large amount of capital. Hence, Vietnam should focus on incentivizing small and medium-sized FDI enterprises4 and consider reducing fees, costs, and administrative procedures to attract investments5.

According to survey results of the European Business Association in Vietnam (Eurocham), the proportion of businesses that find tax incentives attractive is only 28%; according to a summary of survey results by the World Bank and other organizations, low tax rates are not the most paramount factor in a decision of a company on investment location for a new factory, other factors such as political stability, favorable business environment, and quality workforce are considered quality with reasonable wages and infrastructure playing a more vital role. Furthermore, in practice, relying on tax incentives also brings drawbacks as from 2010-2020, the average income tax rate of the Association of ASEAN countries decreased from 25% to 21.7%, and Budget revenue loss due to this tax incentive is estimated at 1% of GDP in Vietnam (Cambodia is 6%, the Philippines is 1%)[[4]](#footnote-4)”. Thus, breaking away from the goal of tax incentives and establishing new preferential policies for renewable power and clean energy projects is necessary because they both help achieve green growth goals and help attract Foreign investment.

There are also recommendations that it is necessary to research and propose to the Government to submit to the National Assembly to promulgate and adjust tax and accounting policies (in accordance with international standards and regulations, etc.); review and change policies to attract FDI capital towards focusing on improving competitiveness factors (such as investment and business environment; skilled labor; the infrastructure; satellite and auxiliary business systems, etc.).

1. **Conclusion**

Before GMT takes effect, Vietnam needs to make a concerted effort to enhance and ensure the quality of its infrastructure, including transportation, telecommunications, and energy, to become a crucial factor in attracting FDI alongside tax incentives.

Attracting foreign direct investment (FDI) requires a high-quality infrastructure, including transportation, telecommunications, and energy, which is more important than tax incentives. Vietnam’s FDI attraction strategy should focus on two key aspects. Firstly, it should evaluate and revise incentives where necessary. Secondly, it should innovate and broaden its approach to business environment reform, making it more attractive than other countries. This requires creating a favorable investment environment that is safe, cost-effective, efficient, and reasonable. Vietnam can leverage its strengths, such as a vibrant market, high-quality labor, and socio-economic infrastructure, to further increase its appeal to potential investors.

Moreover, enhancing foreign investment in Vietnam requires not only a streamlining of administrative procedures but also a cultivation of a proficient and skilled workforce. Education and training programs can be instrumental in equipping workers with the necessary knowledge and competencies. Consequently, Vietnam’s ability to provide a knowledgeable and skilled workforce to foreign investors augments the country’s appeal for investment.

Nonetheless, accomplishing these objectives will necessitate cooperation and consultation among the Government, businesses, and the international community, as the Government cannot handle it alone. Therefore, it can be seen that applying GMT is an opportunity for Vietnam to transform itself rather than a challenge. However, to achieve effectiveness, Vietnam must strive to refine and improve its policies when implementing GMT. This ensures that the country can sustain and attract FDI into Vietnam.

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1. Ministry of Finance: Global minimum tax and the opportunity to collect tens of trillions of additional tax dollars from FDI enterprises [↑](#footnote-ref-1)
2. Ms. Nguyen Thi Thu Huyen, Deputy Director in charge of external affairs of Canon Vietnam [↑](#footnote-ref-2)
3. [FDI and the race for tax incentives among ASEAN countries](https://theprakarsa.org/asean-wide-tax-race-for-fdi-a-road-leading-into-the-abyss/)

4 Mr. Takeo Nakajima, Chief Representative of the Japan Trade Promotion Organization (Jetro) Hanoi

5 Mr. Amcham, Representative of the American Chamber of Commerce in Vietnam [↑](#footnote-ref-3)
4. According to a comprehensive report by Oxfam, VEPR and Prakasa [↑](#footnote-ref-4)