

# Vietnam NewsBrief\*

An update on Corporate Income Tax and Value Added Tax developments in Vietnam

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## Draft Corporate Income Tax and Value Added Tax Laws

Both the Corporate income tax ("CIT") law and the Value added tax ("VAT") laws are scheduled to be amended this year, with the effective date of the changes to be 1 January 2009. Drafts of each law have been distributed for comment.

PwC, in its capacity as leader of the Tax Sub-Working Group of the Vietnam Business Forum, has made comments (both written and verbally) to the Ministry of Finance. If you would like to receive a copy of our detailed comments, please do not hesitate to contact us.

### 1. Corporate Income Tax

#### *Scope of application*

Consistent with the upcoming changes to the Personal income tax regime, the draft amended CIT Law only applies to taxpayers operating in a corporate form. For individuals undertaking business activities, their income will be taxed via the Personal income tax system.

#### *Rate*

In effort to continue to make Vietnam regionally and globally competitive, it proposed that the standard CIT rate be reduced from 28% to 25%.

#### *Tax incentives*

The proposed incentives are less favourable and narrower in their application than those under the current law. The draft proposes only two preferential tax rates (10% and 20%), meaning the removal of the 15% rate. Key changes to the tax incentives are as follows:

- The 10% rate shall apply for 15 years. Taxpayers will also be entitled to a tax exemption of up to 4 years and a period of 50% reduction of up to 9 years.
- The 20% rate shall apply for 10 years. Taxpayers will also be entitled to a tax exemption of up to 2 years and a period of 50% reduction of up to 4 years.

The preferential tax rate and the tax exemption/reduction will both apply from the year in which revenue is generated. Currently, the tax exemption/reduction is applied from the first profitable year. This change will also apply to existing taxpayers with tax incentives that they have not yet started to use (i.e. if a taxpayer has a tax exemption/reduction that has not yet commenced because it has not yet generated a profit, the effective date of the amended law will trigger the tax exemption period).

The draft does not provide tax incentives for business expansion. However, there will be an entitlement to apply accelerated depreciation.

This publication is intended for general guidance only and should not form the basis of specific decisions. Please contact us for further information and details of our services. In Ho Chi Minh City: contact David Fitzgerald (Tax), Phan Thi Thuy Duong (Legal), Kenji Murayama (Japanese Business), Ian Lydall (Audit), Steve Gaskill (Advisory) at phone (84-8) 8230796, fax (84-8) 8251947. In Ha Noi: contact Dinh Thi Quynh Van (Tax), Le Anh Tuan (Legal), Yamagishi Akemi (Japanese Business), Nguyen Phi Lan (Audit), Marc de Pauw (Advisory) at phone (84-4) 8251215, fax (84-4) 8251737.

### *Deductible expenses*

Consistent with the changes effected in Circular 134, the draft Law contains a general deductibility clause that allows expenses to be deductible if:

- they are properly substantiated;
- they relate to the production or trading of the enterprise; and
- they are not specifically identified as being non-deductible.

The 10% cap on advertising and promotion expenditure continues to exist in the draft amended CIT Law. This is extremely disappointing as it had been anticipated that the cap would be removed as part of these changes. This issue is attracting much debate and there is continued lobbying of the Government to have it removed from the final version of the amended law.

### *Other issues*

- Transfer of real estate will be subject to separate tax rules. It seems that this will not only cover the transfer of land use rights and infrastructure but also property located on the land.
- Where a taxpayer has branches in different provinces, a single CIT return shall be prepared. However, the taxpayer will be required to allocate the tax payment to the different provincial tax authorities in the locations where it operates. The basis for allocation will be determined by the Government.
- A transitional period for application of provisions in the existing license, old rules and new rules is provided.

## **2. Value Added Tax (“VAT”)**

Noticeable changes include:

- International transportation will now be subject to 0% VAT, rather than the current VAT exempt.
- Capital transfer, derivative financial services and telecommunication/postal services (only for social and public use) are to be VAT exempt.
- A 5% rate is proposed to apply to a more limited range of goods/services, mostly relevant to agricultural activities/products, etc.
- Input VAT of fixed assets used for both VATable and non-VATable activities shall be fully creditable.
- The 3 month limit for claiming input VAT credit will be removed.
- One of the conditions for claiming input VAT is that payment must be made through the banking system, except for low value purchases. Currently this requirement applies only to exported goods/services.

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