

# Vietnam News Brief

An update on Value Added Tax (“VAT”)

03 November 2011

## EXPORTED SERVICES – CONDITIONS FOR VAT ZERO RATING

Exported services can be VAT zero rated provided that various conditions are met, including:

- the service is rendered directly to an overseas company or a Vietnamese company in a non-tariff area;
- the overseas company does not have a permanent establishment (“PE”) in Vietnam; and
- the overseas company is not registered for VAT in Vietnam and is not a VAT “payer” in Vietnam.

With respect to the PE condition, in the recently issued Official Letter 3349/TCT-CS dated 19 September 2011, the GDT referred to the applicable Double Tax Agreement (“DTA”) to assess whether the Vietnam representative office of the overseas customer constituted a PE in Vietnam.

In the case considered by the OL, the representative office was assessed not to be a PE, and so eligibility for zero rating was confirmed by the GDT.

As the definition of PE in DTAs is generally significantly narrower than the definition of PE under the domestic tax regulations, this may therefore provide increased scope for zero rating of exported services.

Please contact us if you would like to discuss further.

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