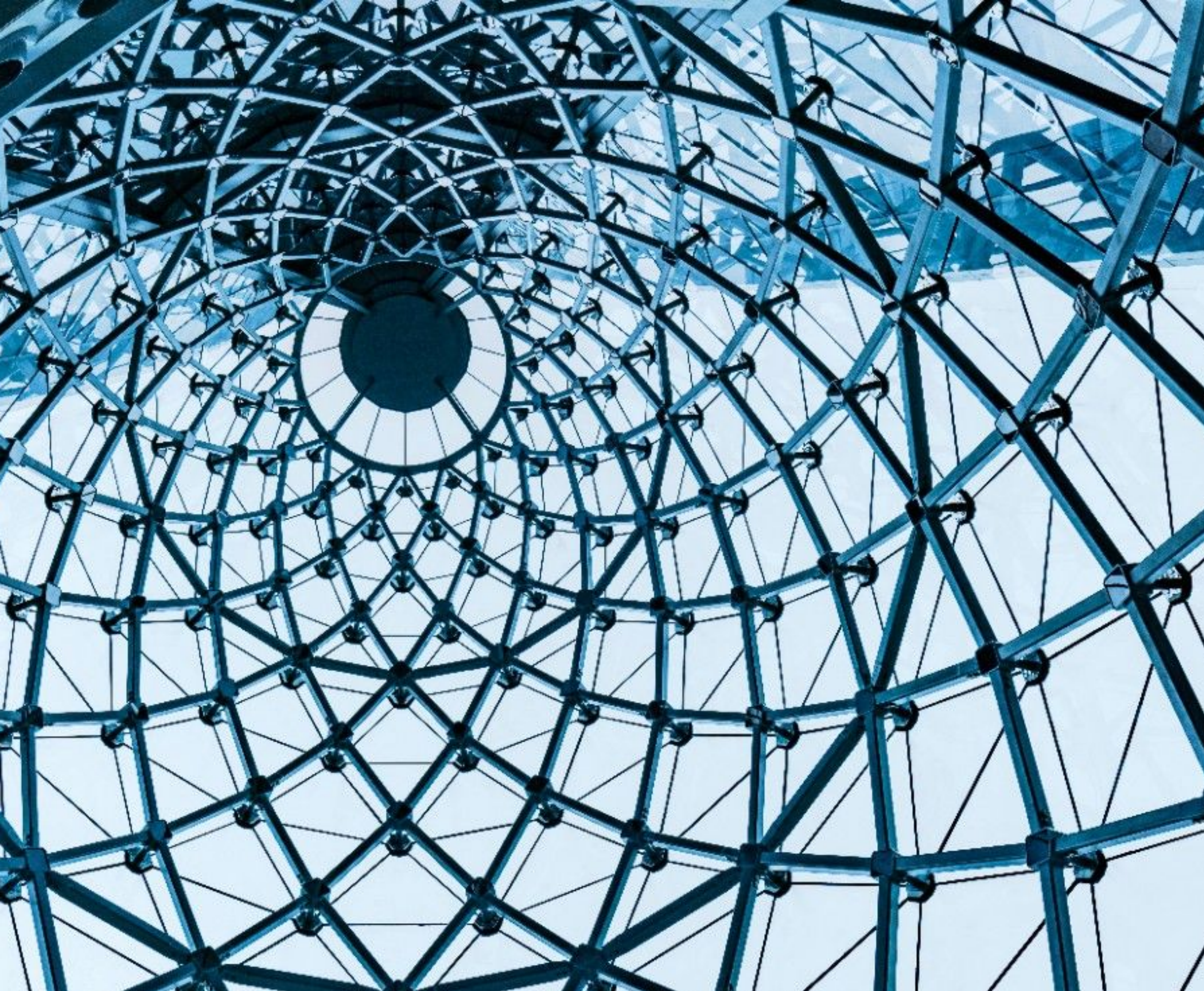

PwC Vietnam Newsbrief

Resolution on Global Minimum Tax policy in Vietnam

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At a glance

Further to our NewsBrief on 1 August regarding the draft Resolution on Global Minimum Tax policy in Vietnam issued for public consultation, the National Assembly approved this Resolution on 29 November.

The Resolution takes effect from 1 January 2024.

In detail

Further to our [Newsbrief]on the draft Resolution on global minimum tax policy, the long-awaited Resolution was finally approved by the National Assembly on 29 November, and will come into effect from 1 Jan 2024. The Resolution provides that Vietnam will adopt (i) the Qualified Domestic Minimum Top-Up Tax ("QDMTT") rule and (ii) the Income Inclusion Rule ("IIR"). This aims to protect Vietnam's tax base in light of the fact that many countries that have investments in Vietnam have announced that they will introduce the IIR from 2024 (e.g., Japan, Korea, etc.). This provides some transparency and certainty for business in Vietnam, particularly as more countries implement global minimum tax rate policy rules.

IIR and QDMTT operation

Follows the OECD's Global Anti-Base Erosion ("GloBE") rules as mentioned in our Newsbrief dated 1 August 2023. The top-up tax will be paid to the central state budget, unlike corporate income tax which is shared between central and provincial state budgets.

Tax filing obligations

- In-scope taxpayers must submit GloBE information returns, supplementary corporate income tax returns and explanations of differences arising from the adaptation of different accounting standards (this seems to be the explanation of material competitive distortion as referred to in the OECD guidance - please refer to PwC observation section for detail). The submission deadlines are as follows:
  - For QDMTT: 12 months after the fiscal year end.
  - For IIR: 18 months after the fiscal year end for the first fiscal year in scope and 15 months for subsequent fiscal years in scope.
- The tax payment deadline is the same as the filing deadline.

Safe harbor and penalty relief

- The Resolution introduces a transitional country-by-country report ("CbCR") safe harbor rule that is the same as that in the OECD's GloBE rules. Accordingly, during the transition period, top-up taxes under QDMTT rule and/or IIR in a jurisdiction are nil if one of the following conditions is met:
  - The multinational group ("MNE group") reports total revenue of less than EUR 10 million and profit before tax of less than EUR 1 million or loss making in such jurisdiction on its qualified CbCR for the fiscal year.
  - The MNE group has a simplified effective tax rate that is equal to or greater than the transition rate for the fiscal year. The transition rate is 15% for fiscal years beginning in 2023 and 2024; 16% for fiscal years beginning in 2025; and 17% for fiscal years beginning in 2026.
  - The MNE group's profit before tax in such jurisdiction is equal to or less than the substance-based income exclusion amount, for constituent entities resident in that jurisdiction under the CbCR, as calculated under the GloBE rules.
- Transitional penalty relief: Administrative penalties relating to tax filings will not be applied during the transition period. However, the Resolution is silent on whether late payment interest will be applied.

PwC Vietnam’s observations

- Vietnamese accounting standards (“VAS”) may qualify as an authorized financial accounting standard under the GloBE rules. It is not entirely clear at this stage whether the calculation of QDMTT and/or IIR will be based on an acceptable financial accounting standard or an authorized financial accounting standard.
- The requirement to submit an explanation arising from adopting different accounting standards indicates that the Vietnamese tax authorities may allow the calculation of QDMTT/IIR under VAS with adjustments to prevent any material competitive distortions. In accordance with the OECD’s GoBE rules, material competitive distortion means an application of a specific principle or procedure under a set of generally accepted accounting principles that results in an aggregate variation greater than EUR 75 million in a fiscal year as compared to the amount that would have been determined by applying the corresponding IFRS principle or procedure. Where a material competitive distortion arises, the accounting treatment of any item or transaction subject to adopted accounting principle must be adjusted to conform to the treatment required for the item or transaction under IFRS. Further guidance on this in Vietnam is expected.
- The investment protection clause in the draft resolution is replaced by a provision stating that this Resolution will override previous laws if there are any discrepancies. This would mean that all in-scope taxpayers are required to comply with the QDMTT filing obligations.
- The Resolution sets out key principles for the QDMTT and IIR to be applied while further detailed guidance is to be issued in subsequent regulations. Particular uncertainties relating to GloBE information returns (e.g. what information needs to be included, technical guidance on how to complete the return), calculation of amounts payable under QDMTT/IIR, and tax filing and payments may be addressed in such regulations.

Contact us

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. For further information or if you require our official advice or assistance, please reach out to us.

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