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Corporate Tax Planning for Businesses in Vietnam in 2024

Corporate Taxes in Vietnam Pg 04

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Introduction

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Vietnam boasts a well-structured and transparent tax and accounting compliance framework, surpassing many comparable emerging markets. The nation regularly revises its policies to bolster economic and business growth. Corporate Income Tax (CIT) constitutes a primary levy on companies' profits, calculated as gross revenue minus expenses. Most businesses in Vietnam face a standard CIT rate of 20 percent. This encompasses entities across all economic sectors, professional bodies, and foreign corporations engaged in production and trade within Vietnam.

Yet, Vietnam has enjoyed global investor favor because of its array of investment incentives, amidst which tax breaks are a key feature. These incentives target specific sectors, regions with varying socio-economic conditions, as well as high-tech and economic zones. Their aim is to stimulate economic, technological, and educational advancement within these areas. Now, to comply with the OECD's global anti-base erosion (GloBE) Model Rules, Vietnam is set to apply a top-up corporate tax from 2024, affecting around 122 foreign companies per the government's estimates.

This edition of the *Vietnam Briefing magazine* discusses Vietnam's corporate tax structure for 2024, key changes, incentives available for businesses, and explains the new top-up tax framework.

As the tax situation of each enterprise is unique and Vietnam's regulatory environment is subject to change, it is advisable to seek professional tax advice specific to your business. For more information on tax, audit, transfer pricing, VAT, and tapping key incentives in Vietnam, feel free to contact our experts on the ground at **vietnam@dezshira.com**.

With kind regards,

Alberto Vettoretti

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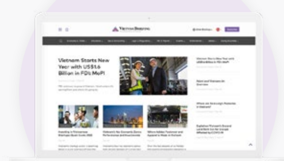

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Corporate Taxes in Vietnam

Ensure meticulous documentation and adherence to regulatory guidelines to navigate corporate tax compliance effectively in Vietnam's dynamic business landscape.

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Corporate income tax (CIT) is a direct tax imposed on the profits earned by companies or organizations. Generally, profits are determined as gross revenue minus expenses. Vietnam's Corporate Income Tax Law was endorsed by the National Assembly on June 3, 2008, and took effect on January 1, 2009. Subsequently, on June 19, 2013, Law Number 32/2013/QH13, amending and supplementing various articles of the Law, was ratified and became effective on January 1, 2014.

Taxpayers encompass business entities across all economic sectors, professional organizations, and foreign corporations engaged in production and trading activities within Vietnam.

Presently, enterprises are no longer obligated to file CIT quarterly. However, they are still required to make provisional CIT payments within 30 days following the quarter, based on estimates derived from previous years' business outcomes. If the total provisional quarterly CIT payments deviate by less than 20 percent or more than the payable amount, the 20 percent difference will incur late payment interest from the final day of payment of the fourth quarterly CIT liability.

Types of enterprises subject to CIT

The types of enterprises subject to corporate tax in Vietnam are defined by Decree No. 218/2013/ND-CP.

- Local and foreign businesses established under Vietnam's Law on Enterprises, Law on Investment, Law on Credit Institutions, Law on Securities, Commercial Law, Law on Insurance, and Law on Petroleum. These entities include joint-stock companies, limited liability companies, partnerships, business cooperation contracts, private companies, the parties in petroleum product sharing contract, petroleum joint venture enterprises, and joint operating companies (JOCs).
- Foreign enterprises with permanent establishments (PE) in Vietnam are liable for taxation on incomes derived within Vietnam,

as well as incomes generated outside Vietnam that are associated with the activities of the establishment. Conversely, those without a PE in Vietnam are only required to pay taxes on incomes generated within the country.
- Public and business enterprises or non-public and non-business enterprises producing and trading goods.
- Organizations established and operating under the Law on Cooperatives.

Vietnam-based PEs through which foreign enterprises conduct business operations and manufacturing, may take various forms:

- Branches, representative offices, factories, workshops, means of transportation, oil fields, or other natural resource extraction sites.
- Construction sites.
- Service-providing centers, including consulting services facilitated by employees or organizations.
- Agents of foreign enterprises.
- Representatives in Vietnam authorized to sign contracts on behalf of foreign companies or responsible for regular provision of goods and services within Vietnam.

Tax rates

The standard CIT rate applicable to all enterprises in Vietnam, irrespective of origin, is 20 percent. However, there are exceptions outlined as follows:

- Applicable CIT rate on petroleum operations ranges from 25 percent to 50 percent, depending on each petroleum contract; the CIT rate applicable on exploration and extraction of other rare and precious resources in Vietnam ranges from 32 percent to 50 percent, depending on each project and each business establishment.

There are two common preferential tax rates of 10 percent and 17 percent that apply for 15 and 10 years, respectively, after revenue generation from encouraged activities. Extensions are possible. After expiry, CIT reverts to standard rate.

A 15 percent rate may apply for the entire project life in some cases, while certain sectors (e.g. education, health) enjoy a lifelong 10 percent rate.

Special incentives are also available to eligible R&D and large investments per the Investment Law. CIT incentives vary, with the most favorable offering a 5 percent rate for 37 years, 6 years tax exemption, and 50 percent reduction for the following 13 years. Land and water rental fees may also be exempted/reduced for a specified period.

Investment or expansion projects focusing on manufacturing industrial products, particularly those subject to regulation (including items supporting garment, textile, footwear, high technology, electronic spare parts, automobile assembly, and mechanical sectors), are eligible for CIT incentives. Certain specific conditions pertaining to the products and projects must be met to qualify for these incentives.

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Taxable income

Taxable income comprises revenue generated from the production and/or trade of goods, provision of services, and various other sources. These include income derived from capital and real estate transfers, revenue from asset ownership or usage rights, proceeds from asset assignment, leasing, and liquidation, interest earned on deposits, loans, or foreign currency sales, recoveries from contingency reserves and bad debts previously written off, income from debts owed to unidentifiable creditors, unreported business income from previous years, and income from production and business activities conducted outside Vietnam.

In cases where an enterprise engages in diverse business activities subject to varying tax rates, it must compute income separately for each activity. This involves multiplying the income from each activity by the corresponding tax rate. Notably, income from real estate transfers and investment project transfers must be segregated during CIT declaration and payment processes and cannot be offset against incomes or losses from other production and business activities.

Exemptions

Certain incomes are exempt from CIT, including earnings from scientific research and technological development contracts during the trial production phase, as well as revenues from technical service contracts directly supporting agricultural production.

Moreover, the CIT Law permits enterprises to allocate a maximum of 10 percent of their annual taxable incomes towards research and development (R&D) endeavors. Enterprises wherein the State holds 50 percent of the charter capital must ensure adherence to the minimum deduction rate of funds stipulated by the Law on Science and Technology.

Should the R&D fund remain unused, be utilized for improper purposes, or if less than 70 percent of the fund is expended within five years, the company becomes liable to reimburse the CIT exemptions on the fund along with accrued interest.

Deductible expenses

When calculating CIT, foreign-invested enterprises (FIE) can deduct any expenses, which are paid for by production and business activities and are supported by adequate lawful invoices and documents, and payments above VND 20 million must be supported by bank payment vouchers or deemed as made via banks. The following expenses, however, are not deductible:

- Salaries and wages of owners of private enterprises or one-member limited liability companies (owned by a single individual); remunerations paid to founders and members of members' councils or boards of directors who do not personally participate in administering goods production and trading or service provision activities.
- Fines for administrative violations, including violations of traffic law, tax law, business registration, accounting, and statistics regulations, and other administrative fines as prescribed by law.
- Credited or refunded input value-added tax; corporate income tax.
- The portion of business management expenses allocated by a foreign enterprise to its resident establishment in Vietnam which exceeds the level calculated by the allocation method stipulated by law.

- The portion of expenses which exceeds the level stipulated by law for the establishment of contingency reserves.
- Items of first aid, except for education and health care to overcome the consequences of a natural disaster or to build a charitable home for poor people.
- Depreciation of fixed assets not in accordance with the prevailing regulations.
- Labor costs recorded which are not actually paid or not stated with clear conditions and amounts under labor contracts, collective labor agreements or company's financial policies.
- Staff's welfare expenses exceeding the cap of one-month average salary.
- Net interest expense exceeding the cap of 30% of EBITDA (if the Companies have related party transactions).
- Interest on loans related to the portion of any charter capital not yet contributed.
- Related-party transactions, which neither agree with the arm's length nature of transactions nor contribute to creating operating sales revenue or income for a taxpayer, including:
  - Payments to related parties that do not perform any business operations relating to the industry or business activities in which a taxpayer is operating;
  - Payments to a related party that performs business operations but its scale of assets, number of employees, and operating functions are incommensurate with the transactional value that this related party has obtained from a taxpayer;
  - Payments to a related party that does not have any right or responsibility relating to assets, commodities, or services rendered to a taxpayer; and
  - Payments to a related party that is a resident entity within a country or territory that does not collect corporate income tax, and that does not contribute to creating sales revenue or added value from the business activities of a taxpayer.
- Service costs incurred with the following related parties:
  - Services rendered for the sole purpose of providing other related parties with benefits or values;
  - Services rendered to provide benefits for shareholders of related parties;
  - Services for which costs are repeatedly charged due to multiple related parties rendering the same services, or in which the added value offered to a taxpayer is unspecified; and
  - Services that are, in nature, benefits obtained by a taxpayer as a member of a corporation and costs that a related party adds to third-party services rendered through a related intermediary without adding any value to these services.

Carrying losses

Business establishments that suffer losses after tax finalization are entitled to carry forward those losses fully and consecutively to future taxable income for a maximum period of five years. Under no circumstances may losses be carried backward.

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In instances of preceding tax periods where the enterprise has incurred losses (if within the loss carryforward period), the enterprise is required to carry forward losses corresponding to income-generating activities. If the enterprise is unable to segregate losses from each activity, it will allocate the loss to the income of the activity eligible for corporate income tax incentives first. Subsequently, if a loss still remains, it will be transferred to the income of activities not entitled to corporate income tax incentives (excluding income from real estate transfer and investment project transfers, income from the transfer of rights to participate in investment projects, and income from transfer of mineral exploration and exploitation rights assets as per the provisions of the law).

Tax payment

Enterprises must pay taxes in the jurisdictions where their headquarters are located. If an enterprise operates a dependent production establishment, such as processing or assembly units, in a different province or city, taxes must be calculated and paid in both locations. The CIT owed to the province or city where the production establishment is situated is calculated by multiplying the CIT amount for the period by the ratio of expenses incurred by the production establishment to the total expenses of the enterprise.

Annual CIT returns need to be submitted not later than the last day of the third month after the financial year end. The outstanding tax liability also needs to be paid at the same time. It is advisable for enterprises to establish a comprehensive financial forecast to accurately estimate the CIT liability for the entire financial year.

GMT Compliance Advisory for Foreign Enterprises in Vietnam

Multinational enterprises (MNE) in Vietnam are advised to pay close attention to the country's tax reforms and policies impacting CIT benefits and conditions for incentives. For example, they must confirm if they fall under the new CIT regime concerning Vietnam's compliance with Global Minimum Tax and Base Erosion and Profit Shifting (BEPS) regulations.

Next, they should assess potential tax implications and the methodologies to compute their tax liabilities. Mitigation strategies should be explored, including tax planning and optimization of structures. A comprehensive action plan for compliance is essential, which details the steps and timelines for necessary changes. Collaboration with the ultimate parent company is crucial for global alignment. Organizing data for compliance, including financial records and transfer pricing documentation, is also important.

Assessing the organization's system capacity to implement BEPS 2.0 and comply with Vietnam's implementing tax regulations is crucial, following which upgrades may become necessary, such as via enhanced and customized SaaS capabilities and seeking local expert guidance.

A proactive approach will not only minimize the foreign firm's tax liabilities but will secure the company's reputation and market credibility with authorities and investors.

Vietnam's Implementation of the Global Minimum Tax

Vietnam's application of a global minimum tax will have significant implications for the tax obligations of MNEs operating in Vietnam, as well as their related filing and compliance obligations.

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The Global Minimum Tax (GMT), also known as "Pillar 2," is a proposed solution by the OECD Inclusive Framework/G20 aimed at addressing profit shifting and aggressive tax competition among multinational enterprises (MNEs). Pillar 2 establishes a set of taxing rules to ensure that MNEs subject to its scope pay a minimum level of tax, set at 15 percent, in each jurisdiction where they operate.

Under the GMT's scope, constituent entities (CEs), which include companies, organizations, permanent establishments (PEs), etc. of MNEs with annual revenues of EUR 750 million or more in the consolidated financial statements in at least two of the four immediately preceding years will be subject to the regulations. An MNE is defined as a group that includes at least one CE or PE not located in the jurisdiction of the Ultimate Parent Entity.

In Vietnam, following careful consideration, the Government passed Resolution No. 107/2023/QH15 (hereinafter "Resolution 107") on November 29, 2023, which mandates the application of additional Corporate Income Tax (CIT) in line with the OECD's Global Base Erosion (GloBE) Rules on GMT.

Effective from January 1, 2024, this resolution includes provisions for the Qualified Domestic Minimum Top-up Tax (QDMTT) and the Income Inclusion Rule (IIR). Under the new top-up tax, 122 foreign companies could face a steep increase in their tax costs in Vietnam, according to a document prepared by the Vietnamese government which estimated the additional intake for the state at 14.6 trillion dong (US$601.05 million) a year.

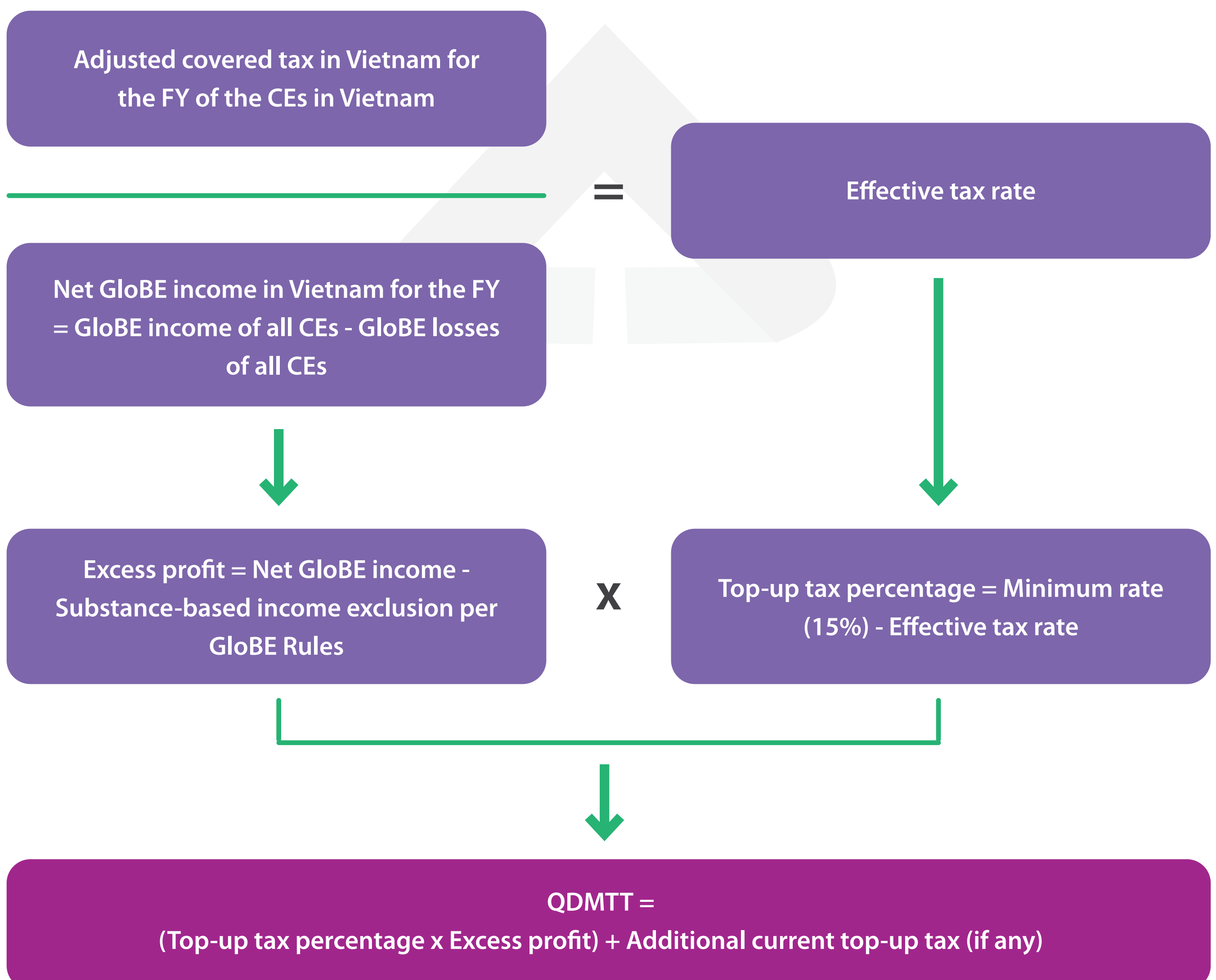
Resolution 107 excludes the following entities from its purview, namely (i) government organizations, (ii) international organizations, (iii) non-profit organizations, (iv) pension funds, (v) investment funds serving as ultimate parent companies, and (vi) real estate investment funds serving as ultimate parent companies. Additionally, it removes from its scope organizations that own 85 percent of their total asset value directly or indirectly through entities as specified above from (i) to (vi).

Qualified Domestic Minimum Top-up Tax

The constituent entities or a group of CEs belonging to the MNE that fall within the scope of Resolution 107 and conduct business activities in Vietnam during the fiscal year are required to adhere to the regulations concerning the Qualified Domestic Minimum Top-up Tax.

If a CE or a group of CEs in Vietnam generate income in accordance with GloBE Rules and the effective tax rate in Vietnam falls below the minimum tax rate, the determination of QDMTT in Vietnam shall be as follows:

- **The Substance-based Income Exclusion** is computed as 5 percent of the total annual average tangible asset value and 5 percent of the total payroll costs of all CEs in Vietnam. During the transitional period starting from 2024, the exclusion values for tangible assets and payroll are outlined in the Appendix accompanying Resolution 107. Initially set at 9.8 percent for tangible assets and 7.8 percent for payroll costs, these figures reduce annually.
- **De minimis exclusion criteria** stipulate that the QDMTT top-up tax will be deemed nil for a fiscal year if the CE or group of CEs meet the following conditions:



- The average GloBE revenue in Vietnam is below €10 million.
- The average GloBE income in Vietnam is less than €1 million, or a loss is incurred.

Income Inclusion Rule and computing tax liability

An ultimate parent entity, partially owned parent entity, or intermediary parent entity operating in Vietnam and qualifying as a constituent entity under Resolution 107 provisions, which directly or indirectly holds ownership (at any point during the fiscal year) of a CE subject to low tax rates abroad (low-taxed CE) is required to declare and settle taxes in accordance with the Income Inclusion Rule.

This obligation applies to the allocable portion of the top-up tax under the GloBE Rules of the low-taxed CE throughout the fiscal year, unless the top-up tax is prioritized for payment in another jurisdiction under the GloBE Rules.

- The **Substance-based Income Exclusion**, as per GloBE Rules, comprises 5 percent of the total annual average tangible asset value and 5 percent of the total payroll costs of all constituent entities within a jurisdiction. During the transitional period beginning in 2024, the exclusions for tangible assets and payroll are detailed in the Appendix accompanying Resolution 107, commencing at 9.8 percent and 7.8 percent for tangible assets and payroll costs, respectively, and decreasing annually.
- **De minimis exclusion criteria** dictate that the Income Inclusion Rule within a jurisdiction will be computed as zero for a fiscal year if the CE or group of CEs meet the following conditions:
  - The average GloBE Revenue in this jurisdiction falls below €10 million.
  - The average GloBE Income in this jurisdiction is less than €1 million, or there is a loss.

Managing compliance: Tax declaration and payment

Declarations to be filed

- GloBE Information Return
- Top-up tax declaration along with an attached explanation of any discrepancies due to differences in financial accounting standards

Deadline for tax declaration and payment

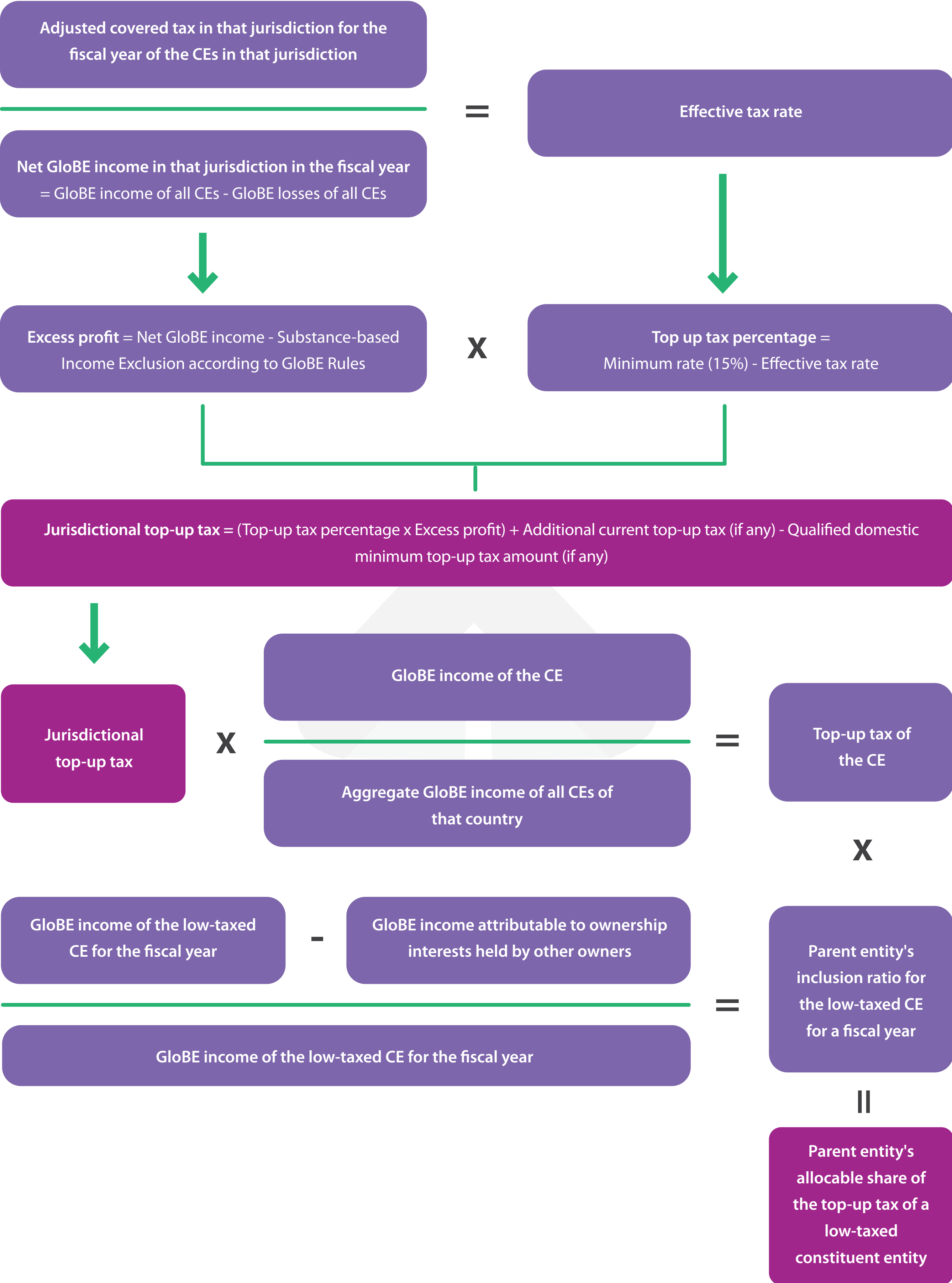
- **QDMTT:** No later than 12 months after the end of the fiscal year
- **IIR:** No later than 18 months after the end of the fiscal year (for the first year in which the MNE is subject to tax) or 15 months after the end of the fiscal year (for subsequent years)

Determining the filing constituent entity

- If the MNE has only one CE in Vietnam, that CE shall be in charge of tax filing and payment.
- If the MNE has more than one CE in Vietnam, the MNE shall issue, within 30 days from the end of the fiscal year, a written notice appointing one of the CEs as its Designated Filing Entity to be in charge of tax filing and payment.
- If the above time limit expires without the MNE notifying the appointment, the tax authority shall appoint a CE to be in charge of tax filing and payment.

Exchange rate

The foreign currency exchange rate for determining the revenue and income threshold specified in Resolution 107 is the average of the central exchange rate announced by the State Bank of Vietnam for the 12th month of the year preceding the year in which the related revenue and income are generated.


Adjusted covered tax in that jurisdiction for the fiscal year of the CEs in that jurisdiction
=
Effective tax rate
Net GloBE income in that jurisdiction in the fiscal year = GloBE income of all CEs - GloBE losses of all CEs
Excess profit = Net GloBE income - Substance-based Income Exclusion according to GloBE Rules
X
Top up tax percentage = Minimum rate (15%) - Effective tax rate
Jurisdictional top-up tax = (Top-up tax percentage x Excess profit) + Additional current top-up tax (if any) - Qualified domestic minimum top-up tax amount (if any)
Jurisdictional top-up tax
X
GloBE income of the CE
Aggregate GloBE income of all CEs of that country
=
Top-up tax of the CE
X
GloBE income of the low-taxed CE for the fiscal year
-
GloBE income attributable to ownership interests held by other owners
GloBE income of the low-taxed CE for the fiscal year
=
Parent entity's inclusion ratio for the low-taxed CE for a fiscal year
=
Parent entity's allocable share of the top-up tax of a low-taxed constituent entity

Others

- Top-up tax shall be paid to the Central Budget.
- The top-up tax is offset when determining the CIT payable in Vietnam corresponding to the income received from investments abroad.

Transitional safe harbor

- Applicable for fiscal years beginning on or before December 31, 2026, but not including a fiscal year that ends after June 30, 2028.
- The amount of top-up tax in a jurisdiction for a fiscal year will be considered nil when one of the following criteria is met:
  1. In the fiscal year, the MNE has a qualified Country-by-Country Report (CbCR) reflecting total revenues of less than €10 million and pre-tax profit of less than €1 million or incurs a loss in that jurisdiction.
  2. In the fiscal year, the MNE has a Simplified ETR (effective tax rate) in that jurisdiction equivalent to at least 15 percent for 2023 and 2024, 16 percent for 2025, and 17 percent for 2026.
  3. The MNE's profit before income tax in that jurisdiction is equal to or less than the Substance-based Income Exclusion calculated under GloBE Rules with respect to the CEs resident in that jurisdiction according to the CbCR.
- During the transition period, there shall be no administrative tax penalties for violations of filing and submission of the above-mentioned declaration and explanation forms.

Investment support fund in Vietnam

To address the higher tax liability following the adoption of GMT, the Vietnam Government has put out a draft decree concerning the establishment, management, and utilization of an investment support fund, whose funding will be sourced from the State budget collection under GMT.

Key features of the draft decree include:

- Support will be provided in cash and will be fully exempt from CIT. It will be allocated for five specific categories: (i) training and human resource development; (ii) research and development (R&D) expenses; (iii) investment in fixed assets (FA); (iv) expenses related to manufacturing high-tech products; and (v) social infrastructure development.
- Eligible entities may request support, subject to review and approval procedures involving various authorities, culminating in the Prime Minister's final decision.
- The Fund will extend support to the following eligible taxpayers:
  a. Companies investing in high-tech production, with capital scales of at least VND 12 trillion or annual revenue of VND 20 trillion;
  b. High-tech entities, with capital scales of at least VND 12 trillion or annual revenue of VND 20 trillion;
  c. Entities with projects applying high technology, with capital scales of at least VND 12 trillion or annual revenue of VND- 20 trillion; and
  d. Entities investing in an R&D center with capital of at least VND 3 trillion. Within three years from the issuance of the Investment Registration Certificate or approval of the investment policy, entities falling under categories (a) to (c) must disburse a minimum investment capital of VND 12 trillion, while entities under category (d) must disburse a minimum investment amount of VND 1.5 trillion.

Tax Incentives for Business Enterprises in Vietnam

Tax breaks stand out as the primary investment incentive in Vietnam, targeting specific sectors and regions and aim to foster economic, technological, and educational advancement.

Mia Pham
Manager
Corporate Accounting Services
Author

There are three types of incentives linked to corporate income tax (CIT) in Vietnam. These incentives are determined by location, sector, and business scale:

- **Location-based incentives:** These incentives apply to qualifying economic and high-tech zones, certain industrial zones, and difficult socio-economic areas.
- **Sector-based incentives:** Incentives are provided for sectors such as education, healthcare, sports/culture, high technology, environmental protection, scientific research and technology development, infrastructural development, processing of agricultural and aquatic products, software production, and renewable energy.
- **Business scale-based incentives:** Large manufacturing projects (excluding projects related to manufacturing products subject to special sales tax or exploiting mineral resources) may qualify for specific incentives based on their scale.

These incentives are designed to promote investment, development, and growth in key sectors and regions of Vietnam, providing opportunities for businesses to thrive while contributing to the country's socio-economic advancement.

The tax incentives available to foreign enterprises in Vietnam are indicated in the table below.

The preferential CIT rates are applied from the first year the enterprise has turnover. The additional incentives of CIT exemption or reduction are applied from the first year in which the enterprise has taxable income. If an enterprise does not have taxable income in the first three years from the first year it has turnover, the tax exemption and reduction will apply starting from the fourth year. In addition to tax incentives, tax reductions may be available for enterprises engaging in manufacturing, construction, and transportation activities, which employ numerous female or ethnic minority staff members.

Tax Incentives in Vietnam and Eligibility		
Preferential tax rate	**Tax holiday in Vietnam**	**Activities**
17% applicable for 10 years	• CIT exemption for up to 2 years. • 50% CIT reduction for up to 4 subsequent years	• Enterprises' incomes from the implementation of new investment projects in areas with difficult socio-economic conditions. • Enterprises' incomes from the implementation of new investment projects, including the manufacture of high-grade steel; energy-saving products; machines and equipment for agricultural, forest, and fishery production and salt making and irrigation equipment; production and refining of livestock, poultry, and aquatic feeds; and development of traditional trades and occupations.
10% applicable for 15 years	• CIT exemption for up to 4 years. • 50% CIT reduction for up to 9 subsequent years	• Newly established companies in regions included on the government-issued list of geographical areas with extremely difficult socio-economic conditions, economic zones, and high-tech zones. • Newly established companies investing in the high-tech sector, producing software, engaging in scientific research and technology development, or investing in the development of infrastructure. • Incomes of hi-tech enterprises and hi-tech agricultural enterprises. • Enterprises' incomes from the implementation of new investment projects in production sectors (excluding projects to include commodities subject to exercise tax, and mining projects). Projects must satisfy one of the following criteria: » Having investment capital of at least VND 6,000 billion (US$258,000) to be disbursed within three years after being granted the permission for first-time investment and having a total annual turnover of at least VND 10,000 billion (US$430,275) within 3 years after the year it begins earning turnover; or » Having investment capital of at least VND 6,000 billion to be disbursed within 3 years after being granted the permission for first-time investment and employing more than 3,000 workers within 3 years after the year it begins earning turnover.
10% tax rate	• CIT exemption for up to 4 years. • 50% CIT reduction for up to 9 subsequent years.	• Incomes of enterprises operating in educational training, vocational training, health care, culture, sports, and environmental industries. • Income from scientific and technological activities of enterprises operating in science and technology sectors under certain conditions. • Enterprises' incomes from the implementation of projects on investment in social housing for sale, lease, or, purchase for the entities. • Press agencies' incomes from printed newspapers, including advertising on printed newspapers in accordance with the Press Law; publishing agencies' incomes from publishing activities. • Enterprises' incomes from forest planting, tending and protection, agriculture, forestry, and aquaculture in areas with difficult socio-economic conditions; production, multiplication, and crossbreeding of plant varieties and animal breeds, making, exploiting, and refining of salt, except for salt making by cooperatives; investment in the preservation of post-harvest agricultural products, aquatic products, and food. • Incomes of cooperatives from agricultural, forestry, fishery, and salt-making activities outside areas with difficult socio-economic conditions or areas with extremely difficult socio-economic conditions, except for incomes of cooperatives that are exempt from CIT prescribed in Decree 218/2013/ND-CP.

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