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VIET NAM BUSINESS UPDATE

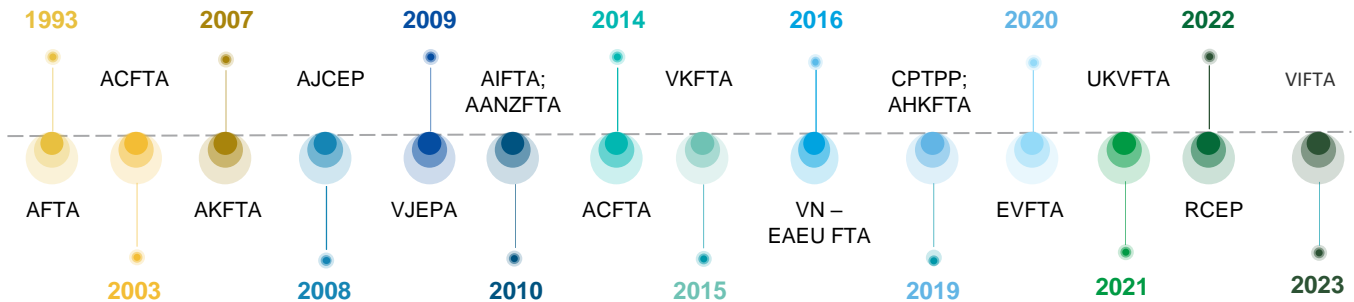
December 2023

SNAPSHOT OF MACRO ECONOMY

Viet Nam remains an attractive destination for foreign investors.

After experiencing constant losses over the previous six months, Viet Nam's foreign direct investment (FDI) attraction has begun to show indications of recovery, becoming a key factor in the medium- and long-term country's economic growth. Indeed, in the third quarter of 2023, Viet Nam signed a free trade agreement with Israel and the free trade agreement with the UK came into effect. Up to now, Viet Nam is member of 16 FTAs, including AFTA, ACFTA, AKFTA, AJCEP, VJEP, AIFTA, AANZFTA, VCFTA, VKFTA, VN – EAEU FTA, CPTPP, AHKFTA, EVFTA, UKVFTA, RCEP, and VIFTA.

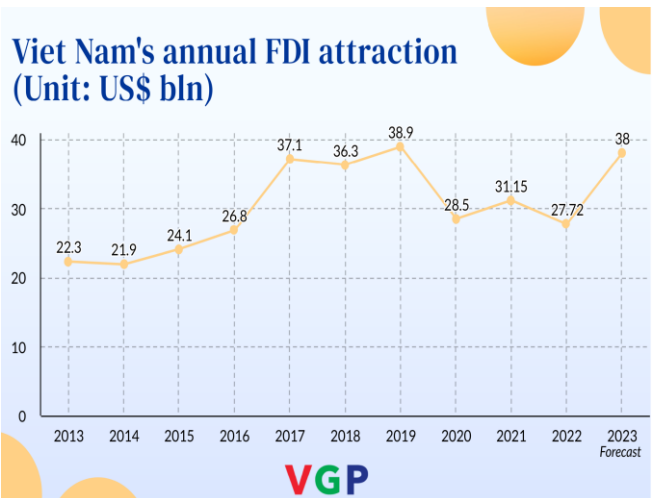
FTA SIGNING



FOREIGN DIRECT INVESTMENT

Viet Nam's Stability, Openness Key to New FDI Commitments

Cumulative foreign direct investment (FDI) commitment in Viet Nam increased despite global uncertainties, thanks to continued confidence in Viet Nam's stability and openness, noted the World Bank (WB)... [Read more...](#)



Viet Nam - The Potential Market

Viet Nam Runs Trade Surplus for Eighth Consecutive Year

Viet Nam is likely to enjoy a trade surplus of US\$26 billion in 2023, almost tripling that of last year, according to the Ministry of Industry and Trade. [Read more.](#)

Viet Nam Among 20 Countries with Highest Rate of Economic Growth

Viet Nam was ranked 12th out of 20 countries with the highest rate of economic growth over the past 10 years, according to Yahoo!Finance. [Read more.](#)



International Economic Activities



Issuing resolution on global minimum tax to proactive international integration

The National Assembly officially passed a Resolution on applying additional corporate income tax (CIT) according to global anti-base erosion rules. Many experts and National Assembly (NA) delegates agree with Vietnam's application of the global minimum tax from the beginning of 2024. [Read more.](#)

APEC 2023: Prominent Regional Cooperation and Connectivity Forum

At the invitation of President of the United States of America Joe Biden, Vietnamese President Vo Van Thuong, accompanied by a high-ranking Vietnamese delegation, participated in the 2023 APEC Economic Leaders' Week and engaged in various bilateral activities in the United States. [Read more.](#)

Vietnam's Significant Contributions at COP 28

Resource mobilization must be diversified, combining public and private, domestic and foreign, bilateral and multilateral, and other legal resources, with a particular emphasis on private resources. Prime Minister Pham Minh Chinh emphasized these points in his speech at the 2023 United Nations Climate Change Conference (COP 28). [Read more.](#)



Prime Minister Puts Forward Major Orientations for ASEAN-Japan Relations

Prime Minister Pham Minh Chinh put forward major orientations for the ASEAN-Japan relations to become a role model and active contributor to peace, stability, and win-win development in the region. [Read more.](#)

Prime Minister Calls on Saudi Funds to Diversify Investment in Viet Nam

Prime Minister Pham Minh Chinh met with Governor of the Public Investment Fund of Saudi Arabia Yasir Al-Rumayyan and Chief Executive Officer of the Saudi Fund for Development (SFD) Al-Marshad in Riyadh on October 19. [Read more.](#)

Ample Rooms for Economic Ties Between Viet Nam, Cambodia to Flourish

Prime Minister Pham Minh Chinh and his Cambodian counterpart Samdech Thipadei Hun Manet attended the Viet Nam-Cambodia trade and investment promotion forum that took place in Ha Noi on December 12. [Read more.](#)

BUSINESS REGULATION UPDATES

Tax update

Resolution on application of the top-up Corporate Income Tax in accordance with Global Minimum Tax policy from 01 January 2024

On 29 November 2023, the 15th National Assembly has issued the Resolution No.107/2023/QH15 on application of the top-up Corporate Income Tax (“CIT”) in accordance with the Global Base Erosion (GloBE) Rules on Global Minimum Tax (GMT), with effective from 01 January 2024, including Qualified Domestic Minimum Top-up Tax (QDMTT) and Income Inclusion Rule (IIR).

Concept and context

- GMT (or “Pillar 2”) is a solution proposed by the OECD Inclusive Framework/ G20 against profit shifting and aggressive tax competition. Pillar 2 sets out a set of taxing rules to ensure that in-scope Multinational Enterprises (MNEs) pay a minimum level of tax at 15% in each of the jurisdiction where they operate;
- In Vietnam, after study, the Government has proposed a Draft Resolution on implementation of the top-up CIT according to GMT, which has been officially approved by the National Assembly to take effect from 01 January 2024. A Decree providing guidance for implementation of this Resolution is being developed by the government.

Main rules applied by Vietnam

Vietnam will apply 2 main rules: **Qualified Domestic Minimum Top-up Tax (QDMTT)** and **Income Inclusion Rule (IIR)**.

Who will be subject to GMT

In Vietnam, the in-scope of application under GMT will include constituent entities (companies, organizations, permanent establishments, etc.) of MNEs that have annual revenue of EUR 750 million or more in the consolidated financial statements in at least 2 of the 4 immediately preceding years. A MNE is defined as a group that includes at least one constituent entity or permanent establishment that is not located in the jurisdiction of the Ultimate Parent Entity (UPE).

Overall impact analysis

- The Resolution on GMT is expected to have a **significant impact** on the in-scope MNEs operating in Vietnam, including subsidiaries of the foreign UPEs in Vietnam and Vietnamese enterprises investing overseas. Specifically, the in-scope companies will be directly affected by (i) **Top-up tax liability** (if their ETR is below 15%, particularly for those that are enjoying tax incentives) and (ii) **Tax filing obligation**.
- Computation and filing regulation under the Resolution which are conformed with GloBE Rules are **quite complicated** with various definitions and terminologies that are newly introduced in Vietnam. Accordingly, enterprises are required to understand thoroughly about related regulations, collect information from different constituent entities, consider critical factors that have impact on the calculation and filing process.
- If **Vietnam's QDMTT** is assessed as **qualified** under the GloBE Rules (subject to a peer review process by the OECD), MNEs operating in Vietnam might be **released from recalculating** Top-up Tax under the GloBE Rules in the host countries, which will help relieve administrative burdens and save costs in relation to compliance work.
- A **Decree by the Government** providing detailed guidance for regulations in this Resolution is expected to be issued in late 2024.

Resolution on VAT rate reduction

On 29 November 2023, the National Assembly approved the Resolutions of the 6th Meeting of National Assembly XV. This includes a VAT rate reduction which will take effect from 1 January 2024 to 30 June 2024.

The scope of 2% VAT reduction will follow Article 3.1 of Resolution 43/2022. Specifically, it will be applicable to goods and services which are currently subject to 10% VAT, except for those pertaining to certain sectors, such as telecommunications, IT, finance, banking,

securities, insurance, real estate, metals, prefabricated metal products, mining products (excluding coal exploitation), coke, refined petroleum, chemical products and those subject to special sales tax. This will be consistently applied for all stages from importation, manufacturing, processing and trading.

The Resolution authorizes the Government to organize the VAT reduction in a timely manner and ensure there is no effect to the State budget collection and over payment in 2024.

VAT refund for on-spot export transactions

On 26 September 2023, the General Department of Taxation issued Official Letter No. 4271/TCT-CS responding to the Binh Duong Tax Department, on VAT policy, as follows:

- Based on the opinion of the General Department of Customs in Official Letter No. 3622/TCHQ-GSQL dated 12 July 2023, in case the Customs Authority determines that on-spot export declarations do not comply with the provision under point c, clause 1, Article 35, Decree No. 08/2015/ND-CP, the Tax Authority will not process the VAT refund, because the transaction does not meet the legal requirements for customs declaration;
- The General Department of Taxation requests the Binh Duong Tax Department to provide guidance to the enterprises based on coordination with Binh Duong Customs Department, the VAT regulations, and relevant legal provisions regarding on-spot exported-imported goods.

Reduction of land rental in 2023

On 03 October, the Prime Minister issued Decision No. 25/2023/QĐ-TTg on reducing land rent by 30% in 2023. This decision took effect from 20 November 2023. Below are some notable points:

- A 30% reduction of land rental for 2023 will be applied for businesses and individuals that lease land directly from the State in the form of annual land rental payment. Of note, tenants are not required to have been impacted by Covid in order to be entitled to the rent reduction in 2023.
- The 30% reduction is not applicable to outstanding land rental payments from previous years and the late payment interest thereon.
- If tenants are also entitled to other rental reductions and/ or are able to claim a credit for compensation and ground clearance, the 30% reduction is only applicable to the rental amount after being reduced and/or offsetting such compensation and ground clearance.
- If tenants have already paid land rental for 2023, and subsequently the authority issues a decision on land rental reduction which results in an overpayment of land rent, tenants can offset such overpayment against land rental payable in the next period or following year, or claim a refund.
- Tenants must submit a request for land rental reduction for 2023 using the form stipulated in Decision 25 (enclosing a copy of relevant supporting documents) by 31 March 2024. Within 30 days, the authority should determine the amount of land rental reduction and issue a decision to the tenants.

CIT incentives for merged projects

- Companies operating in a merged or consolidated projects can inherit the CIT incentives of the merged projects for the regremaining period, if they continue to meet the tax incentive conditions.
- If the merged project meets different incentivized conditions, the company can enjoy CIT incentives for each respective condition for the remaining incentivized period.



Tax update (cont.)

The General Department of Taxation issued Official Letter No. 5029/TCT-PC dated 9th November, 2023 on enhancing the level of disciplinary when issuing official guidance on Tax Policy, Tax Administration relating to the obligations of the Taxpayers. Some notable points as follow:

1. Regarding receiving and processing documents

- In case the taxpayer's queries are unclear or lacking supporting documents, the Receiving agency must request the taxpayers to clarify on the queries and provide supplementary documents in order to provide sufficient basis for response;
- In case the taxpayer has a written request for guidance and application of laws related to determining specific tax obligations, the tax authority ("TA") which directly manages or the TA which would collect the tax receivables for the taxpayer, are responsible for studying and providing guidance for the taxpayer's specific tax obligations;
- In case the taxpayer is not satisfied and continues to send inquiry letters to higher-level of tax agency, the TA which directly manages or the TA which would collect the tax receivables for the taxpayer are responsible for providing the supplementary documents to the higher-level tax authority to provide basis to respond;
- In case a lower-level TA has a written request for guidance from a higher-level TA regarding tax guidance for taxpayers, the request must arise from actual cases (must not be hypothetical situations).

2. Requirements on the content of the tax authority's guidance documents

- Do not provide any guidance outside of taxpayers' queries, or outside of the specific case in the official letter;
- In the case the problem has been clearly, fully and specifically stipulated under existing laws and regulations, the higher-level TA or the processing TA must provide specific instructions, instead of only quoting the regulations or request the lower level TA or the taxpayers to do further study and research;
- In the case there is no clear and specific regulations for the queries, the TA must study and report to the higher level authority to consider and find suitable solutions to the problems, and to propose to the competent authorities to amend or supplement the relevant laws and regulations.



Importing Remanufactured Goods under the CPTPP

On 02 November 2023, the Government issued Decree No. 77/2023/ND-CP outlining the list of remanufactured goods (with HS codes) eligible for importation and the conditions for importing remanufactured goods into Vietnam under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”). Here’s a summary of the key points:

01

Remanufactured goods eligible to import into Vietnam under the CPTPP must meet the following criteria:

- They must be listed in Appendix I, II, III, IV, V of this Decree, corresponding to the management power of the respective ministry: Ministry of Information and Communications, Ministry of Health, Ministry of Transport, Ministry of Industry and Trade and Ministry of Agriculture and Rural Development;
- They must be wholly or partially composed of recovered materials;
- They must have a similar lifespan to new goods of the same type;
- They must perform the same functions as new goods of the same type, with similar quality and performance.; and
- They must have a factory warranty similar to that applicable to new goods of the same type.

02

To import remanufactured goods into Vietnam, importers must fulfill the following requirements:

- Obtain an import license in accordance with the provisions of Chapter IV of this Decree;
- Satisfying rules of origin under the CPTPP; and
- Comply with all relevant regulations of Vietnamese laws and specialized laws applicable to new goods of the same type (e.g.: product labeling, product quality, product standards, energy efficiency, environmental protection.);
- The remanufacturing enterprise (overseas) or the trademark owner, must obtain a remanufacturing code from the Ministry of Industry and Trade according to the provisions of Chapter III of this Decree. This code serves as proof of the company’s remanufacturing capacity, warranty policy, and trademark usage rights. The remanufacturing code remains valid for 5 years from the date of issuance.

Impact to the business:

- **Opportunities for business and supply chain restructuring:** Provide the opportunity for Vietnam companies to access re-manufactured goods at lower cost than new goods;
- **Potential challenges during Decree 77 implementation:**
 - Complex procedures for overseas remanufacturing enterprises and brand owners to obtain remanufactured codes, necessary to enable remanufactured goods to be imported into Vietnam;
 - Risk of divergent understanding and interpretation (both authorities and enterprises) regarding the definition of “remanufactured” goods and “used” goods;

Issuance of C/O Form EAV using HS code 2022

Based on the outcome of the meeting of the Subcommittee on Rules of Origin, and the Coordination Committee for the Implementation of the EVFTA, on 01 November 2023, the General Department of Customs issued Official Letter No. 5641/TCHQ-GSQL providing guidance on the issuance of C/O Form EAV using HS code 2022, in particular as follows:

- For the period from 01 October 2023 to 31 December 2023:
 - ✓ EU competent authorities will issue C/O Form EAV using HS code 2022;
 - ✓ Vietnamese competent authorities will continue to issue C/O Form EAV using HS code 2017.
- From 01 January 2024, Member States of the Agreement will only issue C/O Form EAV using HS code 2022.
- The C/O Form EAV issued in accordance with the above agreed contents will be considered valid and accepted by Customs.

Malaysia, Chile and Brunei to benefit from the tariff rates of the CPTPP

On 07 September 2023, the Government issued Decree No. 68/2023/ND-CP, to amend and supplement the Decree No. 115/2022/ND-CP dated 30 December 2022, issued by the Government, on Vietnam's preferential export tariff, and special preferential import tariff under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”), for the period from 2022 to 2027. In which, the main supplemented items include:

- Additional of 03 countries including Malaysia, Chile and Brunei, to be entitled to enjoy the preferential import-export tariff under the CPTPP:
 - ✓ Malaysia is entitled to CPTPP tariff rates from 29 November 2022 to 31 December 2027;
 - ✓ Chile is entitled to CPTPP tariff rates from 21 February 2023 to 31 December 2027; and
 - ✓ Brunei is entitled to CPTPP tariff rates from 12 July 2023 to 31 December 2027.
- For the imported/exported goods that registered customs declarations from 29 November 2022 (for Malaysia), from 21 February 2023 (for Chile), and from 12 July 2023 (for Brunei), being before the effective date of this Decree (07 September 2023), then provided:
 - ✓ All the conditions to benefits from the CPTPP tariff rates are fulfilled; and
 - ✓ Duty has already been paid a higher tariff rate; then the overpaid amount of duty would be handled by the Customs authority as regulated.
- The Decree is effective from 7 September 2023.

Guidance on the application of CPTPP tariff rates for goods imported from Malaysia, Chile and Brunei

On 27 September 2023, the General Department of Customs issued the official letter No. 5021/TCHQ-TXNK providing guidance on the declaration, and application of special preferential duty rates under the CPTPP for the 03 countries, including Malaysia, Chile and Brunei, which have been added, to enjoy CPTPP duty rates, according to Decree No. 68/2023/ND-CP. Specifically:

- If goods imported into Vietnam from the 03 countries mentioned above, meet the conditions for applying CPTPP preferential tariff rates according to clause 7, Article 5 of Decree No. 115/2022/ND-CP, and clause 3, clause 4, Article 1 of Decree No. 68/2023/ND-CP, the importer of record is allowed to declare the tariff code B21 on the import declaration;
- Goods exported from Vietnam to the 03 countries mentioned above, are allowed to declare HS code and apply export duty rates as prescribed in Appendix I of Export Tariffs issued under Decree No. 57/2020/ND-CP (effective from 10 July 2020 to 14 July 2023), Decree No. 101/2021/ND-CP (effective from 30 December 2021 to 14 July 2023), and Decree No. 26/2023/ND-CP (effective from 15 July 2023).
- The handling of overpaid duties on customs declarations of goods exported from Vietnam to Malaysia, Chile, Brunei, or imported into Vietnam from these countries, is carried out in accordance with the provisions of clause 2, clause 3, clause 4, Article 2, Decree No. 68/2023/ND-CP.



VCCI HIGHLIGHTED EVENTS



Announcing Ceremony of Sustainable Companies in Vietnam 2023: Great Opportunities for Business Embracing Green Growth Objectives

The global momentum toward green growth and the circular economy is not merely a passing trend; it has garnered enthusiastic responses from numerous businesses in Vietnam. Mr. Nguyen Quang Vinh, Vice President of Vietnam Chamber of Commerce and Industry (VCCI) and Chair of the Vietnam Business Council for Sustainable Development (VBCSD), disseminated valuable insights on this issue. [Read more.](#)



NA leader suggests ways for fostering Vietnam - Thailand economic ties

National Assembly (NA) Chairman Vuong Dinh Hue on December 8 made several suggestions for turning economic, trade, and investment ties into a true cooperation pillar between Vietnam and Thailand. [Read more.](#)



Vietnamese, U.S. Business Communities: Collaborative Efforts to Enhance Trade and Investment Ties

The 6th U.S.-Vietnam Business Summit convened collaboratively in Hanoi by the Vietnam Chamber of Commerce and Industry (VCCI), the American Chamber of Commerce in Hanoi (AmCham), and the U.S. Chamber of Commerce in Washington, aimed at fostering trade relations between the two nations. [Read more.](#)



Vietnam-Mongolia Business Forum: Reinforcing Trade and Investment Ties

The Vietnam-Mongolia Business Forum, hosted by the Vietnam Chamber of Commerce and Industry (VCCI) in Hanoi, aimed to bolster and reinforce the partnership in the realms of economics and investments between Vietnam and Mongolia. [Read more.](#)

VCCI HIGHLIGHTED EVENTS



Ample room remains for finance cooperation between Vietnam, Hong Kong

There remains huge room for Vietnam and Hong Kong (China) to cooperate in financial services, which can create capital flows for investment and trade activities in Asia and the world, participants heard at an event held in Ho Chi Minh City on December 13. [Read more.](#)



Entrepreneurs Day: Entrepreneurs - Key for Driving Economic Growth

Resolution 41-NQ/TW, which was signed by General Secretary Nguyen Phu Trong on October 10, 2023, was officially declared at the National Conference for Vietnamese Business Associations and Entrepreneurs on the following day. The Vietnam Chamber of Commerce and Industry (VCCI) and the Vietnam Association of Small and Medium Enterprises jointly organized the conference to commemorate Vietnam Entrepreneurs' Day. [Read more.](#)

Upcoming events

New-year Meeting with Ambassadors and Head of International Organizations in Viet Nam (tentatively scheduled at early 2024).

The event is organized with aim to create opportunities for Ambassadors, Trade Counselors, Head of International Organizations, Foreign Business Associations in Viet Nam to meet and exchange information with VCCI and provincial/ local authorities in order to strengthen the collaboration in the future. Regarding the event, we respectfully welcome the presence of more than 200 delegates who are leaders of some Vietnamese provinces, VCCI leaders, heads of diplomatic agencies, international organizations, the leading businesses and associations in Vietnam.

For further information, please contact us at: anhtd@vcci.com.vn (Mr. Duc Anh – International Relation Department – VCCI).

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