

LEGAL UPDATE (January 24th, 2024)

In this issue, we would like to bring to your attention to the following:

- ***Officially impose global minimum tax from fiscal year 2024.***
- **Declare, pay taxes and manage taxes.**
- ***Liability reduction during the transition period for fiscal years.***

1. Officially impose global minimum tax from fiscal year 2024

The National Assembly passed Resolution No. 107/2023/QH15 on the application of additional corporate income tax according to regulations to prevent global tax base erosion, according to which the global minimum taxpayer is a constituent unit of a multinational corporation with revenue in the consolidated financial statements of the ultimate parent company for at least 02 of the 04 years immediately preceding the fiscal year equivalent to 750 million euros (EUR) or more, except in the following cases:

- a) Government organizations;
- b) International organizations;
- c) Non-profit organization;
- d) Pension fund;
- e) The investment fund is the supreme parent company;
- f) The real estate investment organization is the ultimate parent company;
- g) Organizations with at least 85% of asset value owned directly or indirectly through organizations specified in points a to e.

2. Regulations on Declaring, paying taxes and managing taxes

For regulations on standard domestic minimum additional corporate income tax, deadline for submitting the Information Declaration according to the Global Minimum Tax Regulations, Additional Corporate Income Tax Declaration with Explanation explain the difference due to the difference between financial accounting standards and the deadline for paying additional corporate income tax is no later than 12 months after the end of the fiscal year.

Regarding the regulations on minimum taxable income, the deadline for submitting the Information Declaration according to the Global Minimum Tax Regulations, the additional corporate income tax declaration accompanied by the explanation of the differences between financial accounting standards and the deadline for paying additional corporate income tax is no later than 18 months after the end of the fiscal year for the first year of application for a multinational corporation; no later than 15 months after the end of the fiscal year for the following years.

Determination of constituent units for tax declaration and payment is prescribed as follows:

- a. If a multinational corporation has 01 constituent unit in Vietnam, that constituent unit must submit a declaration and pay additional corporate income tax according to the Global Minimum Tax Regulations.
- b. If a multinational corporation has more than 01 constituent unit in Vietnam, within 30 days from the end of the fiscal year, the multinational corporation shall issue a written notice designating one of the constituent units in Vietnam to submit declaration and pay additional corporate income tax of the group in accordance with the Global Minimum Tax Regulations.

In case within 30 days from the end of the fiscal year, the multinational corporation does not notify the appointment of a constituent unit in Vietnam to submit declarations and pay taxes, then, within 30 days from the date of expiry of the notification deadline, the tax authority shall designate the constituent unit in Vietnam to submit the declaration and pay tax;

- c. When there is an event that leads to a change in the constituent units to submit declarations and pay taxes, within 10 days from the date of the event, the multinational corporation is responsible for notifying the tax authority.

Past the above time limit, if the multinational corporation does not notify, within 10 days from the date of receiving the information, the tax authority shall notify the designated unit to submit a declaration and pay tax;

- d. In case the tax authority has announced the appointment of a constituent unit that must submit a declaration and pay tax according to the provisions of Point b or c of this Clause, if the tax authority has information about the event leading to the change of the constituent unit to file declarations and pay taxes, within 10 days from the date of information, the tax authority notifies the other constituent units to submit declarations and pay taxes.

The additional corporate income tax amount according to global minimum tax regulations is paid to the central budget.

The foreign currency exchange rate to determine the revenue and income threshold specified in Articles 2, 4, 5 and 6 of this Resolution is the average central exchange rate of December of the year immediately preceding the year in which the revenue, income is referenced by the State Bank of Vietnam.

3. *Regarding the Liability reduction during the transition period for fiscal years*

Liability reduction applies during the transition period for fiscal years from December 31, 2026 and before but excluding fiscal years ending after June 30, 2028.

During the transition period, the amount of additional tax in a country for the financial year will be considered zero when one of the following criteria is met:

During the fiscal year, the multinational corporation has a standard cross-country profit report with total revenue under 10 million EUR and pre-tax profit under 1 million EUR or loss in that country;

For the fiscal year, the multinational corporation has a simple effective tax rate within that country of at least 15% for 2023 and 2024; 16% for 2025 and 17% for 2026;

The multinational corporation's pre-tax profit (or loss) in that country is equal to or less than the income deductions associated with tangible assets and labor calculated under the Global Minimum Tax Regulations for with constituent entities residing in that country according to the Cross-Country Profit Report;

During the transition period, there will be no tax administrative penalties for violations of declaring and submitting Information Declarations according to the Global Minimum Tax Regulations and the accompanying supplemented with Explanatory statement explaining the differences due to differences between financial accounting standards.

The selected constituent unit uses a simple calculation method to determine the satisfaction of the liability reduction criteria for additional taxable profits, average revenue and income, and effective tax rates.

The amount of additional corporate income tax paid according to the provisions of this Resolution is offset when determining the corporate income tax payable in Vietnam corresponding to the income received from overseas investment.

Pursuant to the above regulations, the Law on Tax Administration and relevant legal provisions, the Government regulates the tax administration contents for additional corporate income tax according to regulations on preventing erosion of global tax base.

We hope this Newsletter would bring you useful information.

Best regards.

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Contacts:**HO CHI MINH CITY (Head office)**

5th Floor, IMM Building
99-101 Nguyen Dinh Chieu, District 3
Ho Chi Minh City, Vietnam

THE BRANCH IN HA NOI CITY

10th floor, 5 Dien Bien Phu Street,
Dien Bien Ward, Ba Dinh District,
Hanoi City, Vietnam

Tel: +84-28-3899 8683

Email: info@apolatlegal.com

Website: www.apolatlegal.com

SINGAPORE (Affiliated office)

#26-10, SBF Center,
160 Robinson Road
Singapore 068914

Tel: +84-93-2014 986

Email: info@apolatlegal.com

Website: www.apolatlegal.com

Scan QR code:

