

International Tax, Domestic Tax and Customs

Tax & Customs Alert

Highlighting recent tax and customs developments in Vietnam.

Foreign Investment Protection Measures

Some foreign invested enterprises ("FIEs") have recently raised concerns regarding the impact of the Global Minimum Tax ("GMT") policy on Vietnam's investment environment. According to the FIEs, implementing the GMT policy would result in the elimination or limitation of tax incentives granted to FIEs, in the same way as what retroactive tax policies did to the business expansion efforts of FIEs in the past. To address these concerns, the General Department of Taxation ("GDT") confirmed that a decree relating to the GMT policy for the establishment of an investment support fund to stabilise investment environment, attract strategic foreign investors and multinational groups, and support domestic enterprises has been drafted for public opinion.

It is noteworthy that to date, there has not been any mention in any opinions or replies by GDT/the Ministry of Finance of the implementation of measures to protect foreign investors including tax incentives under the current law of investment of Vietnam, to reassure the continuous application of tax incentives granted to FIEs before the GMT policy is introduced and implemented.

Application of VAT Rate to Goods

The Ministry of Finance has issued Circular No. 25/2024/TT-BTC dated 23 April 2024 ("**Circular 25**") abolishing Circular No. 83/2014/TT-BTC guiding the VAT rate application to goods dated 26 June 2014 ("**Circular 83**"). Circular 25 takes effect on 8 June 2024.

There have been controversial discussions and conflicting views by authorities and enterprises on value-added tax ("VAT") rate application to goods when Circular 83 was issued. Conflicting and inconsistent opinions and guidance by local tax authorities and customs authorities regarding the application of VAT rate occurred when the VAT tariff attached with Circular 83 provided VAT rates that were inconsistent with VAT regulations (i.e. VAT law, decrees, and circulars). Consequently, controversial decisions relating to tax collection, penalties, late tax payment were issued by local tax authorities during the recent tax audits.

Amendments to VAT Regulations - Update

The Vietnam government has issued Resolution No. 49 dated 17 April 2024 regarding the draft new Law on value-added tax ("VAT"). Some notable points in the resolution are set out below.

- **Goods and services that are VAT exempt:** The Ministry of Finance ("MoF") will review the current list of goods and services that are VAT exempt and supplement this list if necessary.

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- **Export services that are subject to 0% VAT:** MoF to refer to other countries' VAT regulations for purposes of establishing the criteria and classification rules to determine the export services that are subject to 0% VAT.
- **VAT refund:** MoF will establish the detailed rules of VAT refund in instances of (i) change of enterprise ownership; (ii) enterprise conversion; (iii) mergers and acquisitions (M&A); (iv) separation; and (v) dissolution of enterprise.

The draft new Law on VAT will be completed in the next meeting of the National Assembly XV this month.

If you have any queries on the above, please feel free to contact [Nguyen Hung Du](mailto:du.nguyen@rajahtann.com), Partner, Tax at du.nguyen@rajahtann.com or any of our team members below.

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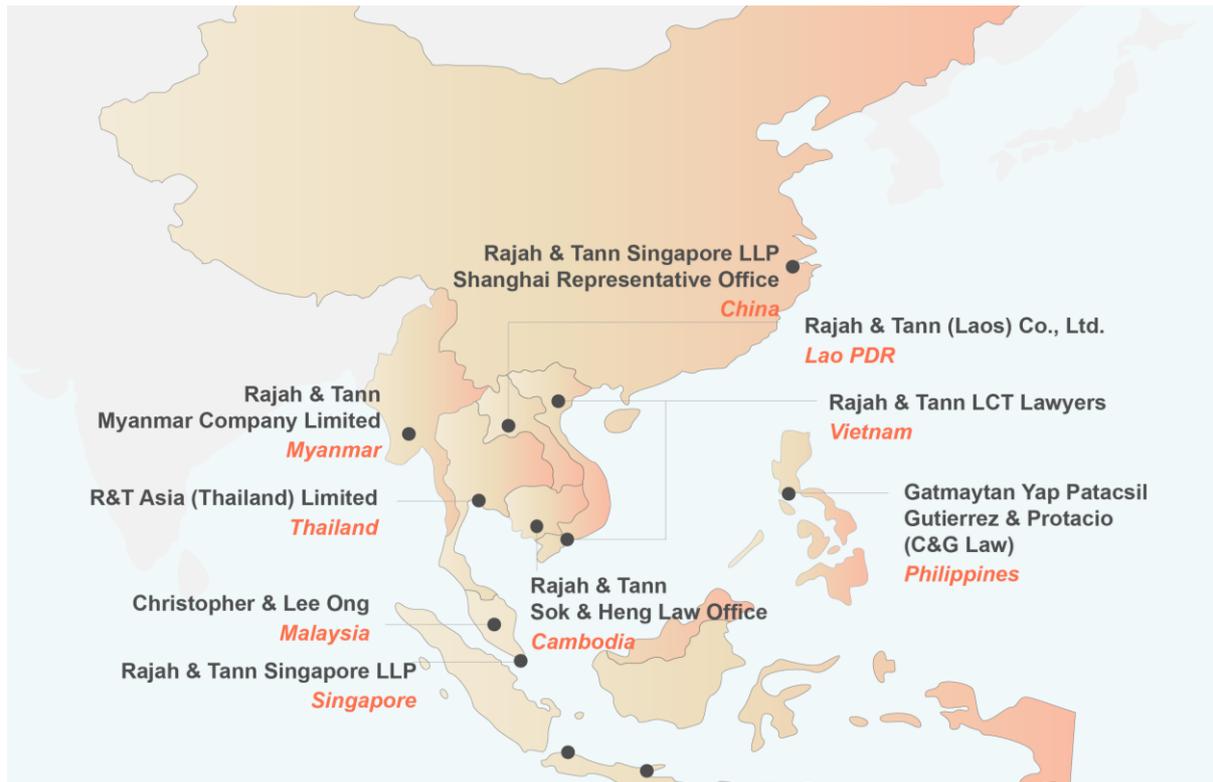
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