Get ready for Pillar 2 –

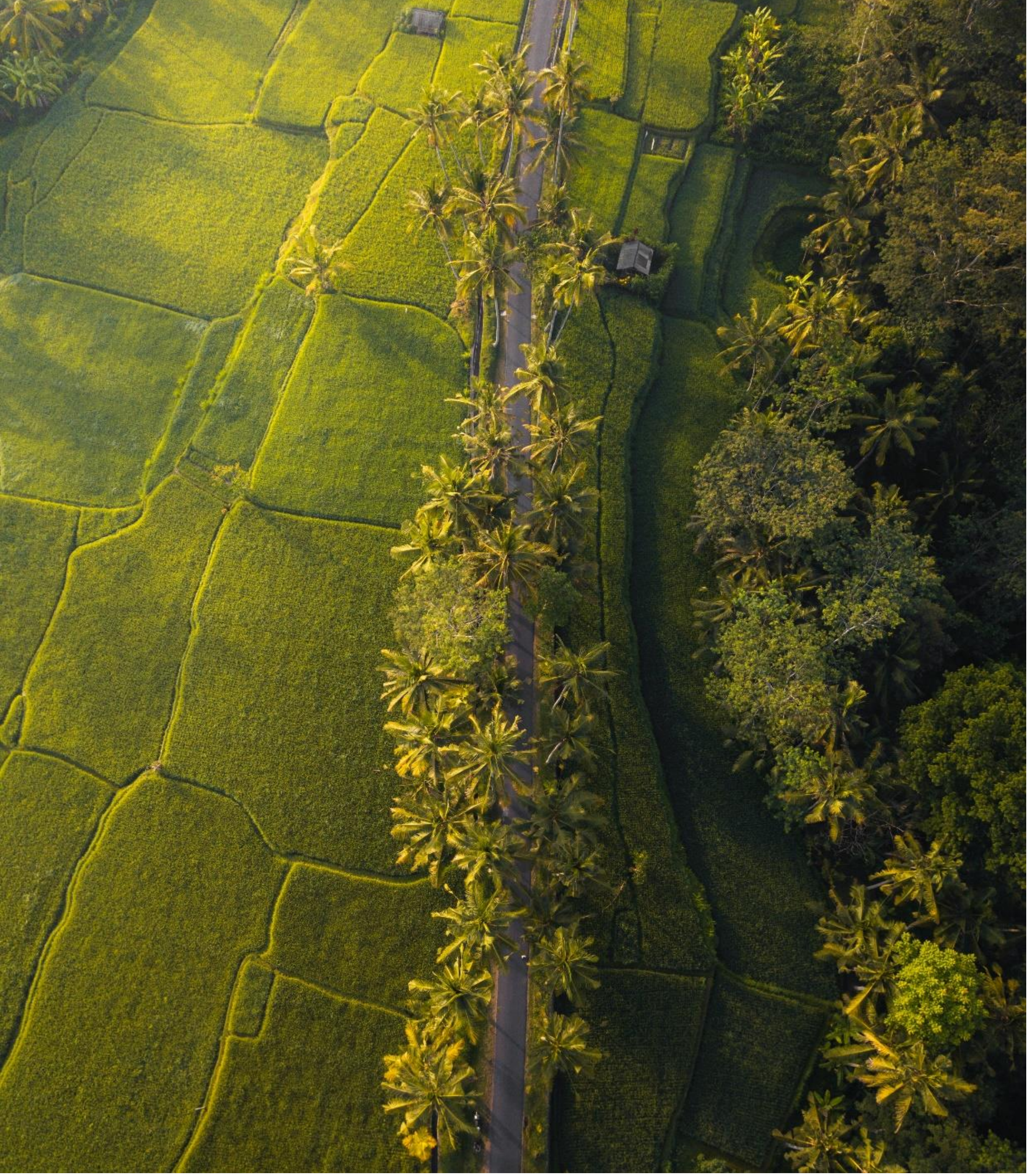
The Vietnamese government's actions to mitigate the impact on the economy.

October 2023

OECD Pillar 2 is one of the two pillars of a comprehensive solution to address the tax challenges arising from the digitalization of the economy. Pillar 2 (Global Minimum Tax) has introduced a minimum threshold at a corporate tax rate of 15 percent for large multinational enterprises with global revenue over 750 million EUR (equivalent to 870 million USD) to prevent the tax race to the bottom.

The Inclusive Framework is a group of over 140 countries and jurisdictions that are working together to implement Pillar 2, that aims to ensure that multinational enterprises pay a global minimum tax wherever they operate. Vietnam is a signatory to the Inclusive Framework and is therefore working towards aligning the current taxation framework in Vietnam in line with OECD Pillar 2. The Vietnam government is undertaking an impact assessment analysis, reviewing various regimes, researching amendments to treaties, legal documents on taxes and incentives to limit the negative impacts of policies on the Vietnamese economy.

In July 2023, the Ministry of Finance (“MOF”) submitted to the government a draft resolution on the application of top-up tax under the Global Anti-Base Erosion (“GloBE”) rule. The draft resolution proposes two main rules to protect the taxing rights of Vietnam which are the Qualified Domestic Minimum Top-Up Tax (“QDMTT”) and the Income Inclusion Rule (“IIR”). QDMTT rules target collecting the additional corporate income tax (“CIT”) on inbound investment of foreign investors in Vietnam who are members of multinational groups subject to Pillar 2, with an effective tax rate below 15%. Under the IIR, the ultimate parent entity or intermediate parent company or partially owned parent entity based in Vietnam is primarily liable for all “top-up tax” that is applied to profits if the effective tax rate in any jurisdiction is below the minimum 15% rate. The draft resolution is still under consideration, but it is expected to be adopted by the government and implemented in Vietnam in January 2024.



On August 14, 2023, the Ministry of Planning and Investment (“MPI”) issued Official Letter No. 6572/BKHĐT-ĐTNN with the aim of receiving comments from relevant Ministries and competent authorities on the draft resolution of the National Assembly for the pilot application of investment support policies in the high technology sector. The implementation of the draft resolution will be a significant boost for the development of the high-tech sector in Vietnam.

The government has suggested a pilot investment incentive strategy for the following businesses.

i. Enterprises running projects with investment capital scale of over VND12 trillion, or enterprises with turnover of VND20 trillion/ year in hi-tech product production.
ii. Hi-tech firms that have investment projects with capital scale of over VND12 trillion or annual turnover of over VND20 trillion/ year.
iii. Enterprises with high-tech application projects with capital scale of over VND12 trillion or annual turnover of over VND20 trillion/ year.
iv. Enterprises invest in research and development center project with a capital scale of over VND3 trillion.

These subjects, which have been stated in the legal documents on High technologies, are consistent with the orientation of attracting foreign investment and long-term sector development which Vietnam pursues, also avoid widespread tax incentives, and minimize their impact on the state budget.

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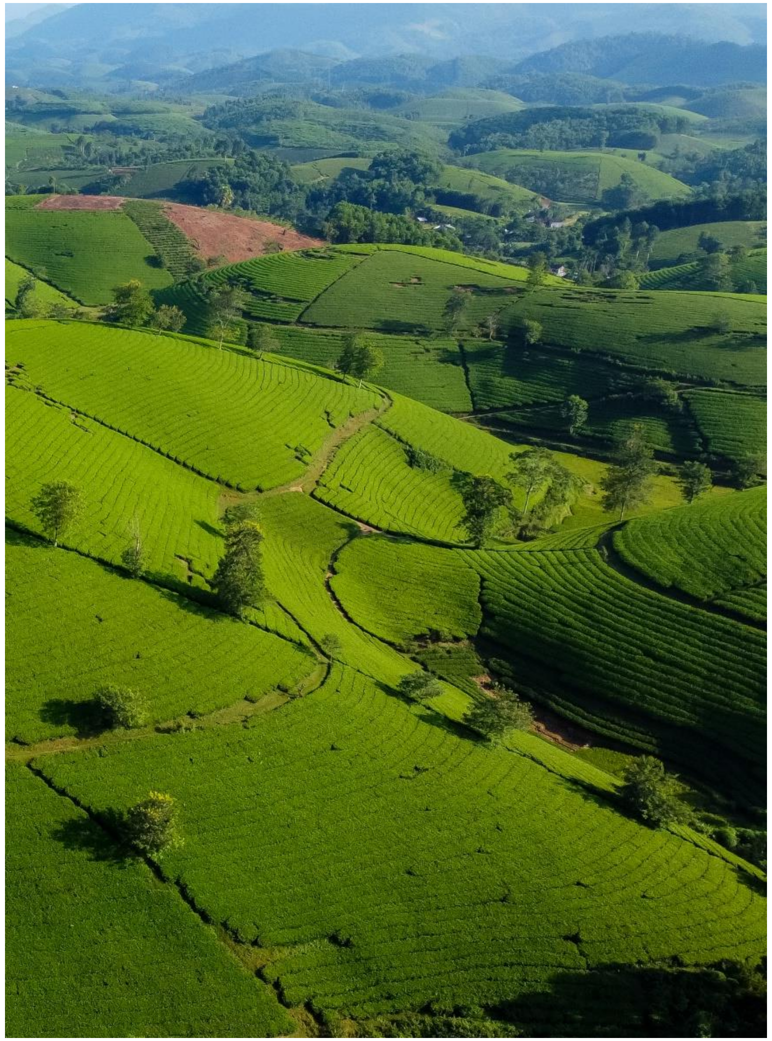
There are four (04) forms of investment support which have been selected for impact evaluation in the draft resolution including (i) support for investment in fixed assets and social infrastructure systems, (ii) support for high-tech product production costs, (iii) support in terms of training expenses and human resources development costs, (iv) support for R&D expenses. In which, the first two forms have not yet been promulgated in any Vietnam Law.

The OECD has enacted the idea of income deduction based on substantive economic activity ("SBIE" - Substance based income exclusion) in its Pillar 2 rules, which is subtracted from income for computing additional tax payments. The purpose of SBIE is to ensure that MNEs pay a fair share of tax in the countries where they have substantive economic activity. Thus, the draft resolution proposes a cost incentive mechanism for production costs, tangible asset investment costs and human resource development costs, which will also be consistent with the spirit of the OECD in encouraging substantive investment mentioned above.

The support methods to be proposed are subsidies in the form of qualified refundable tax credit i.e. a refundable tax credit paid in cash or available as cash equivalents. Several alternative investment incentive methods, such as offering tax rate of 15% for the whole project, additional deductible expenses, or reduction on other types of taxes, have been considered but not recommended. These options are not effective under Pillar 2 as it may affect the financial plans of enterprises currently enjoying tax incentives in Vietnam, or may increase taxable income and lead to additional taxes, or have little impact compared to the financial impact of GMT taxes.

The resolution is expected to be passed in the upcoming future by the National Assembly and enacted on January 1, 2024.

The implementation of Pillar 2 is still in its early stages, but it is important for MNEs to start planning now. This will give them time to assess their exposure to the new rules, compliances and to make the necessary changes to their operations. The Pillar 2 rules are complex and MNEs should seek professional advice to ensure that they are compliant.



Should you need any assistance in assessing the impact of Pillar 2 on your business, please contact us.

Contact

Please study the newly issued regulations and review the internal compliance procedures in order to comply with the regulations on customs tax as well as reduce errors in the process of filing and preparing documents that could lead to additional tax obligations or administrative penalty.
Please contact the experts of Grant Thornton Vietnam for in-depth advice if you have any inquiries during the implementation of tax and customs compliance.

Please visit our Tax Hub to view more information

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