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Tax Alert

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TAX ALERT ON THE DRAFT LAW ON CORPORATE INCOME TAX

According to the Legislative Development Program of the National Assembly ("NA"), it is expected that the draft amendment Law on Corporate Income Tax ("CIT") will be passed during the 9th working session of the NA in May 2025 and will come into effect from 1 January 2026. To complete the draft for submission to the Government, the Ministry of Finance has announced and is currently soliciting comments on the content of the draft Law on CIT with some notable proposed amendments as follows:

1. Governing scope

- To supplement the governing scope of the CIT Law to cover top-up tax, which is collected according to the global tax base erosion prevention regulations (i.e. Pillar 2).

2. Taxable income

- To supplement "tax-exempt income" items, including direct support from the State budget, the first transfer of carbon credits after issuance, interest income on green bonds, income from the first transfer of green bonds after issuance;
- To amend the provision on tax declaration and payment for income of Vietnamese enterprises from investing abroad, according to which enterprises are required to declare and pay CIT on the profit from investing overseas in the period when the income arises, rather than waiting until such income is actually remitted to Vietnam as currently regulated.

3. Tax loss offset and tax loss carry-forward

- Enterprises conducting different production and business activities are allowed to offset losses against income among business activities, except for income from production and business activities that are enjoying tax incentives;
- Gain from "real estate transfer", "investment project transfer", "transfer of investment project participation rights" could be offset against operating loss in the fiscal period.

4. Timing to recognize revenue from service provision

- To amend the timing for recognition of taxable revenue from service provision, which shall be upon the completion of service provision or upon the issuance of invoices in case an invoice is issued before the completion of service.

5. Deductible expenses and non-deductible expenses

- To amend the condition of "non-cash payment" whereby the level of VND20 million is removed. Instead, the "non-cash payment" condition will depend on a specific level regulated in relevant laws and regulations;
- To supplement the cases of non-deductible expenses, including:
  - Interest on loans obtained for implementation of contracts for oil and gas exploration and exploitation;
  - Interest on loans obtained from lenders other than credit institutions or economic organizations with interest rates exceeding 20%/annum on the underlying loan amount; and
  - Expenses, the conditions and nature of which are not in conformity with the underlying laws and regulations.
- Input VAT, which remains creditable but not refundable, can be treated as deductible expenses for CIT purposes.

6. CIT rates

- Supplement the provision on CIT rates applicable to micro-scale and small-scale enterprises at a rate of 15% or 17%, which correlates to the annual revenue levels, which do not exceed VND3 billion or VND50 billion, respectively.
- To amend the CIT rate applicable to income from "capital transfer, asset transfer" by foreign organizations, according to which a deemed CIT rate of 2% will be imposed on the gross sale proceeds, irrespective of whether the foreign organizations have a permanent establishment in Vietnam or not.

7. CIT incentives

- To amend the subjects eligible for CIT incentives, specifically:
  - To remove CIT incentives applicable to some business sectors, including biotechnology development; livestock feed, poultry, and seafood refining; manufacturing projects with a minimum capital scale of VND6,000 billion; investment projects in high-tech zones without investment in the field of high technology;
  - To supplement automotive manufacturing and assembly into the list of encouraged investment sectors;
  - To amend the provision regarding incentivized locations and CIT incentives applicable to businesses located in incentivized locations, accordingly: industrial zones are no longer in the list of incentivized locations; economic zones, technology zones entitled to CIT incentives include concentrated information technology zones; reducing the CIT incentive package to new investment projects in economic zones which are located in areas with favourable socio-economic conditions.
- To amend the provision on CIT incentive for expansion investment projects ("EIP") in a more simplified manner:
  - If the CIT incentive package of the new investment project ("NIP") is still valid: EIP to enjoy the same CIT incentive package for the remaining time and does not have to account separately for the additional income derived from EIP;

- If the CIT incentive package of the NIP has expired, the additional income derived from EIP is eligible for a CIT exemption and CIT reduction period equal to those applied to a NIP of the same incentivized sector or location, counting from the year when the investment capital registration is completed for the investment project. If the income of the EIP cannot be accounted for separately, the taxable income of the EIP shall be allocated based on the ratio of newly acquired fixed assets for EIP over the total historical cost of the enterprise's fixed assets.

• Where the enterprise's income meets various incentive conditions, the enterprise can choose the most beneficial CIT incentive package, which must be consistently applied throughout the entire incentive period;

• In some specific cases, if the enterprise's income meets the conditions to enjoy incentivized CIT rates and simultaneously meets the conditions for other incentive schemes based on the encouraged sectors or encouraged locations ("other CIT incentive conditions"), and that enterprise chooses to enjoy the incentive package based on the latter, the enterprise could switch to applying the incentivized CIT rate for the remaining period based on former condition after the expiry of latter CIT incentive scheme.

• To amend the provision on the starting time of CIT incentive where the enterprise enjoys incentives based on the Certificate of high-tech application project, Certificate of high-tech enterprise, Certificate of high-tech agriculture application, Certificate of scientific enterprise, or Certificate of incentives for the production of supporting industrial products ("Certificate, Confirmation of incentives") after the generation of taxable income, accordingly, the CIT exemption and reduction period shall be counted from the year when the Certificate or Confirmation of incentives is granted. If the enterprise has not generated taxable income in the year when the Certificate or confirmation of incentives is granted, the CIT exemption and reduction period is counted from the first year when the taxable income is generated or from the fourth year when the Certificate or Confirmation of incentives is granted if there is no taxable income derived in the first three years.

8. Legalization of the top-up tax according to the global tax base erosion prevention regulations

• The draft law dedicates a chapter to regulate the top-up tax /according to the OECD standard model.

Please contact KPMG if your company needs further discussion on the Draft Amendment Law on CIT.

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