

## VIETNAM – ALERT ON TAXING MECHANISM FOR CROSS-BORDER E-COMMERCE AND DIGITAL TRANSACTIONS

### UPDATES ON THE PROPOSED MECHANISM FOR IMPLEMENTING TAXATION OF DIGITAL TRANSACTIONS

23 July 2021

## UPDATES ON TAXING MECHANISM FOR CROSS-BORDER E-COMMERCE & DIGITAL TRANSACTIONS IN VIETNAM

The Ministry of Finance has released the subsequent version of draft Circular on taxing mechanism applicable to cross-border e-commerce and digital transactions conducted by offshore e-commerce suppliers and digital platform-based service providers into Vietnam (collectively referred to as “offshore suppliers”) recently. The latest version provides more detailed guidance which are highlighted below:

- Offshore suppliers shall be subject to Vietnamese Value Added Tax (VAT) and Corporate Income Tax (CIT) on a deemed percentage of the revenue received by the foreign suppliers. The rates of VAT and CIT are various, depending on the nature of goods or services provided as stipulated in the current regulations on VAT and CIT.
- The VAT and CIT rates are similar to that of applying under the existing foreign contractor withholding tax mechanism of Vietnam. Typically, the commonly applicable rate is 5% VAT and 5% CIT for services, while supply of goods without other services and cross-border delivery would generally be exempted.
- Tax exemption/reduction mechanism under Double Taxation Avoidance Agreement might be applicable for offshore suppliers whose countries or territories have an effective tax treaty with the Government of Vietnam.
- The parties in charge of tax declarations and payments for the offshore suppliers remained unchanged in this version of draft Circular, which are either:
  - i. the foreign suppliers or their authorized service providers to self-declare and pay taxes directly to the Vietnam Tax Authority through their tax code and transactional account registered on the Electronic Portal of the General Tax Department (“GDT”); or
  - ii. the Vietnamese registered business that has transactions with the offshore supplier or the Vietnamese commercial banks/intermediary payment service providers involved in the transaction to withhold, declare and pay taxes on behalf of the offshore suppliers.
- In case the offshore suppliers fail to register for tax declaration in Vietnam, the Vietnam Tax authority shall coordinate with relevant authorities to determine and publish the name and website address of such offshore suppliers. The information shall also be shared with commercial banks/intermediary payment service providers to assist them with the withholding, declaration and payment of taxes on behalf of the non-registered offshore suppliers.
- Apart from the offshore e-commerce suppliers and digital platform-based service providers, the scope of the latest draft version has expanded to include other service providers who do not have permanent establishment (“PE”) in Vietnam.

It is, however, important to note that the draft Circular has not been finalized at this stage.

## Contact us



**Thomas McClelland**  
Partner in charge  
+84 28 7101 4333  
tmcclelland@deloitte.com



**Bui Ngoc Tuan**  
Partner  
+84 24 7105 0021  
tbui@deloitte.com



**Bui Tuan Minh**  
Partner  
+84 24 7105 0022  
mbui@deloitte.com



**Phan Vu Hoang**  
Partner  
+84 28 7101 4345  
hoangphan@deloitte.com



**Dinh Mai Hanh**  
Partner  
+84 24 7105 0050  
handinh@deloitte.com



**Suresh G Kumar**  
Partner  
+84 28 7101 4400  
ksuresh@deloitte.com



**Vo Hiep Van An**  
Partner  
+84 28 7101 4444  
avo@deloitte.com



**Vu Thu Nga**  
Partner  
+84 24 7105 0023  
ngavu@deloitte.com

### Hanoi office

15th Floor, Vinaconex Tower No. 34 Lang Ha Street,  
Dong Da District, Hanoi  
Tel: +84 24 7105 0000  
Fax: +84 24 6288 5678

 [www.deloitte.com/vn](http://www.deloitte.com/vn)

### Ho Chi Minh City office

18th Floor, Times Square Building 57-69F  
Dong Khoi Street District 1, Ho Chi Minh City  
Tel: +84 28 7101 4555  
Fax: +84 28 3910 0750

 [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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