

VIETNAM: LAW ON VALUE ADDED TAX

On 29 December 2023, the National Assembly Standing Committee ratified Resolution No. 41/2023/UBTVQH15 on adjustment of program on development of laws and ordinances in 2024. Included is the draft Value Added Tax ("VAT") amendment law which will be proposed to the National Assembly for comments at the 7th working session (which is scheduled to take place in May 2024) and approved at the 8th working session (which is scheduled to take place in October 2024).

The Ministry of Finance has released a draft amendment for public comment, aiming to streamline regulations and improve tax administration. Here's a breakdown of some key proposals:

1. Scope of VAT Exemption:

- **Credit Services:** The detailed list of exempt credit provision services will be removed. Instead, taxpayers will refer to the Law on Credit Institutions to determine VAT applicability.
- **Securities Trading:** The scope of exempt securities trading activities will be narrowed, aligning with definitions in the Law on Securities. Non-listed activities will be subject to VAT.
- **Capital Transfers:** Clearer definitions will distinguish VAT-exempt capital transfers from taxable project and asset transfers.
- **Debt Sales:** The definition of "sale of debt" will encompass both debt and receivable transfers by businesses.
- **Financial Leasing:** Goods imported by financial leasing companies for leasing to entities within non-tariff zones will be exempt from VAT.
- **VAT Threshold Increase:** The annual revenue threshold for VAT exemption for individual and household businesses will rise from VND100 million to VND150 million.
- **Exempt Imported Goods:** "Imported goods supporting disaster relief, epidemic control, and war prevention efforts" will be added to the exempt category.

2. VAT Rates:

- Exempt Exported Services: The category of "exported services subject to 0% VAT" will be narrowed to three specific service groups provided to foreign entities: vehicle rentals for overseas use, international transportation services, and aviation/maritime services directly related to international transport.
- Reclassified Goods: Fertilizer products, fishing vessels, and specialized agricultural machinery will be subject to 5% VAT (previously exempt).
- Medical Equipment: The applicable VAT rate for medical equipment, machinery, and instruments will be determined by prevailing regulations on medical equipment management, considering their usage purpose.
- Duty-Free Shops: Goods sold in duty-free shops will be classified as exported goods subject to 0% VAT.

3. Input VAT Credit:

- Omitted Invoices: Taxpayers can now declare previously omitted input VAT invoices when discovered, but before tax authorities initiate an audit/inspection.
- Reduced Non-Cash Payment Threshold: The minimum requirement for non-cash payments for input VAT credit deduction will be lowered from VND20 million to VND5 million.
- Export VAT Refund Documentation: Packing lists, bills of lading, and cargo insurance documents will be mandatory for input VAT credit and refund claims related to exported goods.

4. VAT Refund Eligibility:

- VAT Refund Expansion: VAT refund eligibility will be extended to:
- Businesses solely producing or providing services at the 5% VAT rate, with accumulated uncredited input VAT exceeding VND300 million over 12 months/4 quarters.
- Businesses using the credit method for VAT declaration and undertaking investment projects compliant with investment regulations. These businesses can claim a refund for input VAT incurred during the investment stage (applicable to new and expansion projects) if the uncredited VAT sum exceeds VND300 million. The refund application deadline is within one year from project/phase/unit completion.

- Simplified VAT Refund for Exported Products: The 51% rule requiring a minimum percentage of natural resource/mineral value in the production cost of exported processed products will be eliminated. Instead, the government will publish a list of eligible natural resources and minerals for VAT refund assessment.
- Streamlined Refund Process: The draft removes restrictions on VAT refund for businesses with incomplete charter capital contribution and ownership/enterprise conversion situations (merger, consolidation, division, separation, liquidation).

This draft VAT law proposes several additional amendments and clarifications to harmonize with specialized legal regulations. It aims to codify existing practices and enhance policy transparency for smoother implementation.