
Tax

Government Measures to Assist Economic Recovery under Resolution No. 43/2022/QH15 and Implementing Decree 15/2022/ND-CP: Keynotes and Implications

On 11 January 2022, Resolution No. 43/2022/QH15 on Fiscal and Monetary Policies for Supporting Socio-economic Recovery and Development Program ("**Resolution No. 43/2022**") was approved by the National Assembly of the Socialist Republic of Vietnam.

The objectives of Resolution No. 43/2022 are to stimulate the rapid recovery of production activities, prioritise certain sectors, and strive to achieve the goals set out in the 2021-2025 plans: (i) maintain average GDP growth of 6.5-7% per year, ensuring public debt levels are lower than the allowable threshold permitted under Resolution No. 23/2021/QH15; (ii) restrict the urban unemployment rate to below 4%; and (iii) maintain a stable macroeconomic environment.

A number of policies were enacted to support the objectives of Resolution No. 43/2022. A combination of fiscal policies targeting a reduction of Value Added Tax ("**VAT**") rate in 2022 from 10% to 8% (i.e., a 2% reduction) with certain exclusions applying to the telecommunications industry, banking and financial activities, insurance, trading of real estate, metal, and precast metal products, mining products (excluding coal mining), coke mining, refined oil, chemical products, and goods and services subject to special consumption tax. In addition, expenses relating to donations and sponsors in support of proactive COVID-19 efforts are allowed to be included in deductible expense for the purpose of calculating an enterprise's taxable income in 2022.

The implementing Decree 15/2022/ND-CP ("**Decree 15/2022**") prescribing tax exemption and reduction which came into force from 1 February 2022, deals with VAT reduction on goods and services currently subject to 10% VAT (Article 1) and deductible expenses from donations and sponsors allowed in the determination of taxable income (Article 2).

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With respect to Article 1, the accompanying Appendix I lists in detail the goods and services not subject to a reduction in the current VAT rate to 8%. The list of goods and services excluded is broad and covers sectors and activities such as telecommunications, finance, banking, insurance, real estate, metal and precast products, mining, oil and chemical products. Further, Appendix II lists the goods and services which are subject to special consumption tax, and these are excluded from the application of the VAT reduction rate. Appendix III lists the goods and services relating to other information technology which are also excluded from the VAT reduction rate of 8%. Appendix IV provides the templates for declaring VAT reduction (Form 01) and supporting documentation for donations and sponsorships to fight the impact of COVID-19 (Form 02).

Keynotes and Implications

- Since its introduction, Decree 15/2022 has generated concerns as to the practical application of the new rule. Given the policy objectives of Resolution No. 43/2022 to aid the rapid recovery of economic activities in Vietnam, the concerns raised by enterprises affected by Decree 15/2022 include whether the new rules provide immediate relief or represent an administrative burden to access given the numerous exclusions outlined in the Appendices. Considering many enterprises have multiple business lines and products which require careful review to properly apply the new rules, there are several questions as to whether this will facilitate the assistance required by businesses. For instance:
 - Is there classification based on product code or industry code?
 - Are adjustments based on a single invoice or aggregate invoice?
 - Will the situation of goods and services executed before 1 February 2022 but invoiced in February 2022 arise?
- In addition, the period of applicability regarding VAT reduction under Article 1 of Decree 15/2022 is only from 1 February 2022 to 31 December 2022. This gives enterprises barely enough time to adjust their existing systems and internal processes to assess eligibility for the goods and services subject to the VAT reduction. Hence, this is a major pain point for many enterprises attempting to apply the new rules.

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

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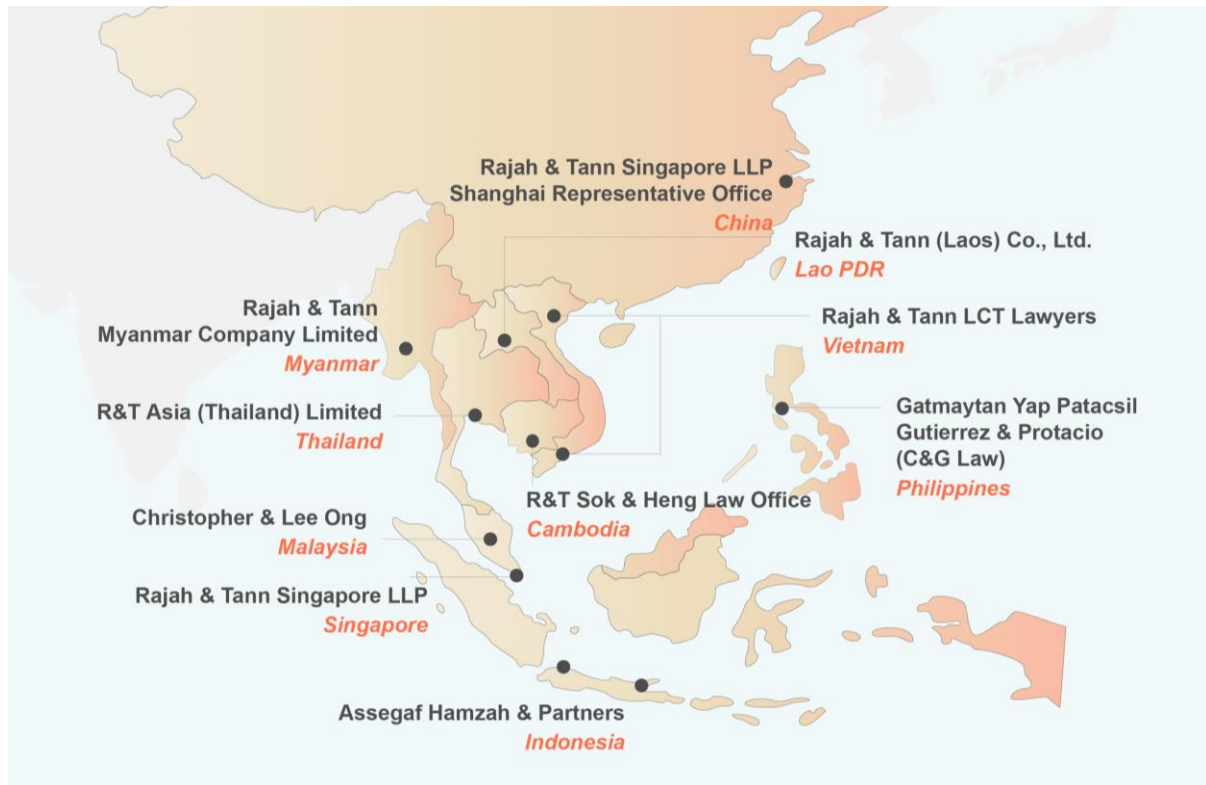
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