



The Daybreak of the Global Minimum Tax: Striking the Balance Between Foreign Investment Attraction and International Tax Standards

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Abstract. The Global Minimum Tax (GMT) - a pivotal component of the Organization for Economic Co-operation and Development's (OECD) Inclusive Framework on Base Erosion and Profit Shifting (BEPS) - endeavors to establish a uniform international threshold for corporate taxation, thereby augmenting fairness, transparency, and stability within the global tax arena. Given the context of Vietnam's growing economy, the country faces the intricate challenge of harmonizing its Corporate Income Tax (CIT) with international standards to prevent tax base erosion while simultaneously nurturing an environment conducive to both foreign and domestic investments. As a result, the GMT brings about significant implications for the Vietnamese tax landscape. In this paper, the authors briefly revisit the fundamental rules governing the GMT before we delve into its implementation and implications in Vietnam. We argue that implementing the GMT in Vietnam presents both opportunities and challenges. While the GMT offers an opportunity to enhance tax fairness, create tax revenues for the State budget, and align with international tax standards, it also poses challenges, such as the need for legislative and administrative reforms. As Vietnam advances towards harmonizing its tax system with the GMT, weighing the benefits against the complexities is imperative to ensure a balanced implementation that fosters economic growth while maintaining fiscal sovereignty. The authors also make several recommendations for Vietnam to effectively implement the GMT, emphasizing the revision of domestic CIT legislation to cultivate an attractive investment environment that concurrently adheres to international tax standards.

Keywords: BEPS, global minimum tax, pillar, Vietnam

1 Introduction

In the evolving landscape of international taxation, the concept of a Global Minimum Tax (GMT) has garnered significant attention. The initiative for a GMT, spearheaded by the Organization for Economic Co-operation and Development (OECD), aims to address the challenges posed by the digitalization of the economy and the erosion of the tax base. This paper seeks to explore the implications, challenges, and opportunities of implementing the GMT in Vietnam, a nation that has experienced rapid economic growth and increasing integration into the global economy.

This paper begins by outlining the global context in which the GMT was proposed, followed by the national context in which the GMT was adopted in Vietnam. The introduction of the GMT in Vietnam is expected to have far-reaching implications for multinational corporations operating within its borders.

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Furthermore, the paper delves into the specific challenges Vietnam may face in adopting and implementing the GMT. Additionally, it examines the strategic considerations that Vietnamese policymakers must navigate to effectively integrate this global tax reform into their domestic fiscal regime.

By providing an overview of the GMT within the Vietnamese context, this paper aims to contribute to the broader discussion on global tax reform and its implications for emerging economies. The adoption of the GMT in Vietnam is not only a matter of compliance with international tax standards but also a strategic move that could redefine its position in the global economic landscape. Through this analysis, the paper intends to offer insights into how Vietnam can leverage this tax reform for sustainable economic growth and enhanced international cooperation in tax matters.

1.1 An overview of the global minimum tax

1.1.1 The OECD/G20 inclusive framework on base erosion and profit shifting (BEPS)

The conceptual groundwork for BEPS 2.0 began as a response to the limitations of the existing international tax framework in addressing the challenges posed by digitalization and globalization. The initial BEPS project, commenced in 2013, laid the foundation for addressing tax base erosion and profit shifting but was soon recognized as insufficient in the rapidly evolving global economy [1]. This led to the development of BEPS 2.0, with its two-pillar approach.

Pillar 2 of BEPS 2.0, concerning the GMT, aims to ensure that multinational corporations pay a minimum level of tax regardless of where they are headquartered or where their profits are booked [2]. The OECD/G20 Inclusive Framework on BEPS, comprising over 135 countries and jurisdictions, played a pivotal role in developing this pillar [3]. The process involved extensive public consultations and discussions among the members of the OECD/G20 Inclusive Framework on BEPS. These consultations were crucial for addressing the concerns of various stakeholders, including emerging economies and developing countries, and ensuring that the framework was equitable and implementable across diverse tax jurisdictions [4].

In October 2020, the OECD released blueprints for both pillars of the BEPS 2.0 project, with Pillar 2 specifically focusing on the introduction of a global minimum corporate tax rate [5]. This blueprint laid out the detailed technical aspects of the proposal, including the Income Inclusion Rule (IIR), the Undertaxed Payments Rule (UTPR), and the Subject to Tax Rule (STTR).

In July 2021, 130 countries and jurisdictions, representing more than 90% of global GDP, agreed on the key components of both pillars [3]. This agreement marked a major step towards global consensus. Following the political agreement, the focus shifted to developing a detailed implementation plan, including the drafting of model rules and multilateral instruments necessary for the implementation of Pillar 2. This phase involved intricate technical work to ensure that the rules were practical and effective across different tax systems. In February 2023, the OECD released technical guidance for the implementation of the GMT. This guidance is another significant milestone in the adoption process of the GMT because it provides detailed instructions and clarifications for countries to effectively implement the agreed-upon tax rules [6].

The final steps in the process involve the adoption and implementation of the agreed-upon rules by individual countries[7][8]. This includes incorporating the rules into national legislation

and, where necessary, modifying existing bilateral tax treaties [9]. The process is dynamic, with ongoing monitoring and adjustments to address any practical issues that arise during implementation. This phase is crucial for ensuring that the objectives of the GMT are met, and that the system adapts to the evolving global economic landscape.

The adoption of BEPS 2.0, particularly Pillar 2, is a complex, multi-stage process that involves international collaboration, negotiation, and consensus-building [10]. It represents a significant effort to overhaul the international tax system to address the challenges of the 21st-century economy, ensuring that multinational corporations contribute an equitable share of tax wherever they operate.

2 Research Methods

2.1 Key components of the global minimum tax

The GMT is an international tax reform initiative that has been developed to address the challenges of taxation in the globalized economy. This reform comprises several key components designed to ensure that multinational corporations contribute an equitable share of tax, irrespective of where they operate. Among these, the Income Inclusion Rule (IIR), Undertaxed Payments Rule (UTPR), Qualified Domestic Minimum Top-up Tax (QDMTT), and Subject to Tax Rule (STTR) are pivotal. The following are the primary components of the GMT.

2.1.1 Income inclusion rule (IIR).

The IIR is a central pillar in the framework of the GMT. This rule mandates that if foreign subsidiaries or branches of a multinational corporation pay below a specified minimum rate of tax in their jurisdiction, the parent company in its residence jurisdiction must “top up” this tax to the agreed minimum rate. This mechanism serves as a direct countermeasure against profit shifting to low-tax jurisdictions. By ensuring that the global income of a multinational corporation is subject to at least a minimum rate of tax, the IIR aims to realign taxation rights with substantive economic activities and value creation [2].

2.1.2 Undertaxed payments rule (UTPR)

The UTPR functions as a complementary rule to the IIR. It addresses situations where the IIR is insufficient to ensure the minimum taxation of a multinational corporation’s income. This rule allows jurisdictions to “top up” the tax on a proportion of income from a related party resident in a jurisdiction where that income is subject to an effective tax rate below the global minimum. The UTPR ensures that the tax paid on profits is at least the global minimum rate by allowing other jurisdictions in which the multinational corporation operates to impose additional tax, thereby preventing profit shifting to low-tax jurisdictions[2].

2.1.3 Qualified domestic minimum top-up tax (QDMTT)

The QDMTT is a domestic law provision that allows a jurisdiction to impose a top-up tax

to meet the global minimum tax rate. This provision enables countries to directly collect the additional tax required under the GMT, rather than relying on other jurisdictions to apply the IIR or UTPR. The QDMTT is particularly relevant for countries that wish to retain tax revenues that would otherwise be collected by other jurisdictions under the IIR or UTPR. This mechanism is significant for ensuring that tax revenues are equitably allocated among jurisdictions where multinational corporations operate (OECD, 2023a).

2.1.4 Subject to tax rule (STTR)

The STTR is a targeted rule aimed at safeguarding taxing rights of developing countries. It allows these countries to impose limited source taxation on certain payments (such as interest, royalties, and fees) when these payments are subject to an effective tax rate below a minimum rate in the recipient's jurisdiction. The STTR is designed to counter the challenges faced by developing countries due to tax treaty limitations, ensuring that they can apply a minimum level of taxation to payments made to foreign affiliates. This rule is essential for protecting the tax base of lower-income countries and ensuring that they receive a fair share of tax revenues from cross-border transactions involving their jurisdictions [2].

These rules collectively form a comprehensive framework aimed at addressing the challenges of international tax avoidance and profit shifting by multinational corporations. They represent an effort to realign the international tax system with the realities of a digital and globalized economy, ensuring fair taxation across jurisdictions [3].

3 Results and Discussion

3.1 The adoption of the global minimum tax in Vietnam

3.1.1 Incorporating the global minimum tax into the vietnamese tax system

The GMT has garnered significant attention from the international investment community and host countries alike. As the GMT is anticipated to take effect in early 2024, Vietnam faces the imperative of swiftly deploying strategic measures to effectively respond to and mitigate any adverse impacts stemming from this novel fiscal mechanism. Navigating the intricacies of the global tax landscape necessitates prompt and well-coordinated efforts to ensure that Vietnam continues to attract foreign investment while aligning with international taxation standards. Proactive measures are indispensable in safeguarding the country's competitiveness and sustaining its allure to foreign investors amid the evolving global tax environment.

Given the Vietnamese government's plan to amend and supplement the Corporate Income Tax (CIT) to incorporate GMT-related provisions, the prevailing consensus within the Committee of Finance and Budget of the National Assembly underscores the imperative need for provisional measures. Most opinions within the Committee converge on the necessity to promulgate a temporary Resolution of the National Assembly [11]. This Resolution would specifically address the application of additional CIT in accordance with the GMT.

On 10 November 2023, the Ministry of Finance, acting under the authorization of the Prime Minister, presented the Draft Resolution on the application of additional CIT in accordance with the Global Anti-Base Erosion (GloBE) Rules ("Draft Resolution") [11]. The rationale behind

this Draft Resolution is to furnish an interim solution and regulatory framework while awaiting the comprehensive amendment of the Law on CIT. This approach enables Vietnam to promptly align itself with international standards and ensure the effective application of the GMT within its jurisdiction. This strategic maneuver underscores the country's commitment to swiftly adapting to evolving global tax dynamics and signifies a proactive stance in safeguarding fiscal interests while maintaining a stable and appealing investment environment [11].

Nevertheless, it is noteworthy that the existing preferential policies, which are not subject to the GMT, are being retained [12]. This strategic decision is designed to prevent potential adverse effects on foreign direct investment (FDI) and to discourage businesses from exiting the Vietnamese market. By preserving these incentives, the government aims to sustain Vietnam's attractiveness as an investment destination, even in the face of the evolving global tax landscape. This approach recognizes the significance of maintaining a competitive edge to retain and attract businesses, thereby contributing to the continued growth and development of the Vietnamese economy.

The Draft Resolution encompasses regulations delineating the scope of application, taxpayers, the interpretation of terms, guidelines for the QDMTT, specifications on the IIR, procedures for tax declaration and payment, and provisions for the implementation of the Resolution. This comprehensive set of regulations aims to provide clarity, transparency, and a robust legal framework for the application of the GMT within Vietnam, ensuring effective implementation and compliance with international tax standards [13].

In late November 2023, the National Assembly passed the Resolution on the application of additional CIT in accordance with the GloBE Rules. This Resolution aims to promptly specify the regulations regarding the application of the GMT in Vietnam, which is set to be enforceable starting from the Fiscal Year 2024. Its purpose is to internalize the provisions related to the GMT, allowing Vietnam to retain the right to impose additional CIT (at the rate of 15%) on multinational corporations with foreign investment projects in Vietnam that are paying effective taxes below 15%. The Resolution consists of eight Articles, covering the scope of regulation, taxpayers, definitions, provisions on the QDMTT, provisions on the IIR, tax declaration and payment, and provisions for the implementation of the Resolution [14].

Furthermore, the National Assembly has resolved to endorse the government's proposal to draft a Decree in 2024 for the establishment, management, and utilization of the Investment Support Fund from the additional revenue generated by the GMT and other lawful sources. This Fund aims to stabilize the investment environment, attract strategic investors and multinational corporations, and support domestic enterprises in sectors requiring investment promotion. The draft Decree will be submitted for review by the Standing Committee of the National Assembly before its promulgation. Simultaneously, a comprehensive review will be conducted to enhance the coherence of the policy and legal framework for investment promotion, in line with the evolving national development [14].

3.1.2 Opportunities and challenges of implementing the global minimum tax in Vietnam

Scheduled for implementation on 1 January 2024, the GMT is anticipated to usher in both opportunities and challenges for Vietnam. Presently, Vietnam employs an array of tax incentives aimed at attracting foreign investment. Collectively, these mechanisms cultivate a favorable fiscal environment, designed to incentivize foreign investment in Vietnam. Such incentives contribute significantly to enhancing the country's competitiveness in the global market. This array of incentives has effectively resulted in an effective CIT rate of 12.3% for FDI enterprises, with major corporations benefiting from remarkably low tax rates ranging from 2.75% to 5.95%

[15]. This advantageous tax environment has engendered confidence among foreign investors seeking entry into the Vietnamese market, positioning Vietnam favorably vis-à-vis other emerging economies. However, with the impending implementation of the GMT, multinational corporations investing in Vietnam will encounter an additional CIT, necessitating payment of the difference between the 15% GMT rate and their current tax rate. Consequently, the previously enjoyed tax benefits in Vietnam will either dissipate or undergo substantial reduction, thereby diminishing the tax appeal for significant FDI players and potentially influencing their investment decisions in Vietnam [15].

Even smaller FDI enterprises in Vietnam may face repercussions, despite their non-direct exposure to the GMT, owing to their integration into the production and business networks of large multinational corporations. The assessment conducted by the General Department of Taxation of the Ministry of Finance suggests that approximately 120 multinational corporations, along with over 1,000 affiliated businesses, investing in Vietnam, will bear the brunt of the GMT policy [11][15][16]. This underscores the widespread ramifications of the policy on the broader business ecosystem, underscoring the interconnectedness of enterprises within the Vietnamese market. As the GMT takes effect, its impact on these multinational corporations is expected to reverberate throughout their associated entities, including smaller FDI enterprises, influencing their operational dynamics and financial considerations within the evolving tax landscape [16].

The advent of the GMT signifies an overriding transformation, rendering traditional tax incentives less effective in attracting foreign investors to Vietnam in the foreseeable future. In response to this paradigm shift, Vietnam must expeditiously explore alternative strategies to incentivize foreign investment. The emphasis now rests on the reassessment and adjustment of FDI attraction policies, redirecting focus towards improving the overall business environment, advancing infrastructure development, and fostering the establishment of a robust ecosystem of enterprises, auxiliary industries, and complementary businesses [11][15][16]. These foundational factors will take precedence over the erstwhile reliance on tax incentives. Through proactive engagement in these strategic adjustments, Vietnam can position itself as an enticing investment destination, transcending the constraints imposed by the GMT and ensuring sustained FDI.

Furthermore, the implementation of the GMT necessitates meticulous preparation of relevant regulations to safeguard tax revenues and mitigate potential losses arising from variances between Vietnam's current preferential tax rates and the GMT-prescribed 15% threshold. To achieve this equilibrium, Vietnam must promptly undertake a comprehensive review and judicious adjustment of pertinent laws, with a particular focus on key legislative frameworks such as the Law on CIT, Law on Investment, and Law on Enterprises [17][12]. This proactive legal reassessment is imperative to align the national tax system with international standards, ensuring fiscal resilience and coherence amidst global tax landscape shifts. By doing so, Vietnam can navigate the complexities of the GMT while preserving its fiscal interests and reinforcing its commitment to a stable and transparent regulatory environment for investors.

4 Conclusions

This paper has thoroughly examined the potential impacts and challenges of implementing the GMT in Vietnam. The analysis underscores the significant implications that the GMT holds

for Vietnam, both in terms of opportunities for enhancing tax revenues and the challenges in aligning with international tax standards.

The adoption of the GMT in Vietnam represents a pivotal shift in its tax policy, signaling a commitment to global tax reform efforts led by the OECD. This move is expected to bring about a more equitable and transparent international tax system, reducing the incentives for profit shifting and base erosion by multinational corporations. For Vietnam, the GMT offers an opportunity to bolster its tax base, ensuring a fair share of tax revenues from global businesses operating within its borders. This is particularly pertinent as Vietnam continues to attract foreign direct investment due to its strategic location and growing economy.

However, the implementation of the GMT in Vietnam is not without its challenges. The paper has highlighted concerns regarding the need for comprehensive legal and regulatory reforms and the potential impact on foreign investment inflows. Balancing these challenges with the benefits of the GMT will be an essential task for Vietnamese policymakers.

In conclusion, the introduction of the GMT in Vietnam is a landmark step towards more robust and equitable global tax practices. While challenges exist, the potential benefits in terms of increased tax revenues, reduced tax avoidance, and enhanced tax fairness are substantial. As Vietnam navigates this transition, it will be essential to continue monitoring the impacts and refining policies to ensure that the GMT serves its intended purpose of fostering a fairer and more sustainable global economy. This paper contributes to the ongoing discourse on global tax reform and its implications, particularly for emerging economies like Vietnam.

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