

# Special Alert

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## Updates on the Draft Decree Guiding the Implementation of Certain Articles of the Law on Value-Added Tax

On 4 March 2025, the Ministry of Finance (“**MOF**”) released the second draft of the Decree (the “Draft Decree”) providing detailed guidance on the implementation of a number of articles of the Law on Value-Added Tax (the “**VAT Law**”). The MOF is currently seeking comments to finalize the Draft Decree for the implementation of the VAT Law.

### Key Takeaways

- Clarification on agricultural products that have only undergone conventional processing, and updated lists of resources and minerals not subject to VAT;
- Reduction of the cash payment threshold for purchased goods and services, specifically requiring non-cash payment documents for transactions of from VND5 million or more (including VAT);
- Notable guidance on the determination of taxable prices for goods and services used in promotional activities; and
- Detailed instructions regarding the conditions for VAT refunds applicable to goods and services subject to the 5% VAT rate.

### New Guidance on Goods and Services Not Subject to VAT

#### **Conventionally processed agricultural products are not subject to VAT**

The Draft Decree provides a more detailed definition of conventionally processed products derived from cultivation, forestry, livestock, aquaculture, and fishing; and expands the list of accepted conventional processing methods beyond those currently prescribed under prevailing regulations.

According to Article 3.1, products are considered to have undergone only conventional processing if they have been subject to basic treatments such as cleaning, drying, husking, milling, crushing, shelling, seed removal, stem removal, cutting, polishing, starching, portioning, deboning, chopping, skinning, rolling, salting, airtight canning, chilling, freezing, preservation with sulfur gas, use of chemical preservatives to prevent spoilage, soaking in sulfur solutions or in other preservative solutions, or other commonly applied preservation methods.

The determination of a product as either unprocessed or having only undergone conventional processing is executed by the Ministry of Agriculture and Environment.

### **Issuance of new categories of non-taxable export goods**

The Draft Decree promulgates two new lists of export products that are not subject to VAT in Appendix I and Appendix II, including:

- List of exported products that are resources and unprocessed minerals; and
- List of exported products that are resources and processed minerals.

### **Reduction of the Threshold for Non-Cash Payment Requirements for Purchased Goods and Services from VND20 Million to VND5 Million**

Pursuant to Article 10.2 of the Draft Decree, one of the key conditions for the deduction of input VAT is that enterprises must possess non-cash payment documents for the purchase of goods and services (including imported goods) value at VND5 million or more (inclusive of VAT). This is a new highlight of the Draft Decree, which provides specific conditions for non-cash payment documents, supplementing and clarifying the provisions of Article 14.2(b) of the VAT Law.

This Article further lists special cases where the requirement for non-cash payment documents does not apply. These exceptions largely adopt and consolidate provisions previously outlined in Article 15 of Circular No. 219/2013/TT-BTC, as amended by Circular No. 26/2015/TT-BTC. However, the Draft Decree expands on prevailing regulations by introducing additional circumstances, including:

- **Payments made in the form of stocks or bonds:** If such payment method is expressly specified in the contract, a written sales contract must be prepared in advance to serve as supporting documentation; and
- **Payments made by employees on behalf of the enterprise:** In cases where purchased goods and services are authorized to be paid by an employee of the enterprise, and the enterprise later reimburses the individual, the enterprise is allowed to deduct input VAT, provided these goods and services are used for the enterprise's production and business activities.

### **Notable Guidance on Taxable Prices of Goods and Services Used for Promotional Activities**

With respect to goods and services used for promotional purposes, Article 4.3 of the Draft Decree provides that the taxable price of such promotional goods and services shall be determined as zero (0), or the taxable price of goods and services sold shall not include the value of promotional goods and services.

A taxable price of zero (0) applies when:

- Provision of sample goods or services for customers to try without charge: The taxable price of such sample goods or services shall be zero (0); and
- Giving away goods or providing services free of charge: The taxable price of the donated goods or services shall be zero (0).

The value of promotional goods and services shall not be included in the taxable price in the following circumstances:

- Goods are sold or services are provided together with vouchers for purchasing goods or using services: The taxable price of the goods or services shall exclude the value of such vouchers;
- Goods or services are sold together with contest entry forms used to determine prize winners under published rules and prize structures (or other equivalent forms of contest and prize distribution): The taxable price shall not include the value of the goods or services awarded to contest winners;
- Participation in a lucky draw is associated with the purchase of goods or services, and prizes are awarded based on random selection in accordance with published rules and prize structures: The taxable price of the goods or services shall exclude the value of the goods or services awarded as prizes; and
- In loyalty programs where customer rewards are based on the volume or value of goods or services purchased and are issued in the form of loyalty cards or vouchers recording such purchases: The taxable price shall exclude the value of those loyalty cards or vouchers.

### **Guidelines on VAT Refund for Goods and Services Subject to the 5% Tax Rate**

New guidance on the basis for VAT refunds applicable to enterprises that engaged solely in the production of goods and provision of services subject to the 5% VAT rate is provided under Article 11.3 of the Draft Decree.

The specific conditions for VAT refunds are as follows:

- The undeducted input VAT must amount to at least VND300 million after a period of twelve (12) consecutive months or four (4) consecutive quarters;
- If the enterprises engage in the production or provision of goods and services subject to different VAT rates, input VAT related to the production of goods or provision of services subject to the 5% VAT rate must be separately accounted for. In cases where separate

- accounting is not feasible, the refundable VAT amount will be determined based on the allocation ratio, calculated from the total revenue during the tax refund period; and
- If the total input VAT, comprising both separately accounted amounts and amounts determined under the allocation method, exceeds the VAT payable on taxable goods and services by at least VND300 million, the enterprise is eligible for a VAT refund relating to the production of goods and provision of services subject to the 5% VAT rate. The amount of VAT requested for refund will be determined according to the provisions in Appendix V attached to this Draft Decree.

## Conclusion

There are ongoing proposals to amend certain conditions related to input VAT deduction and payment thresholds requiring non-cash payment documents, among other matters addressed in the Draft Decree. Therefore, the Government will continue to collect and consider public and stakeholder feedback in order to finalize the guidelines on VAT, ensuring consistency with the provisions of the promulgated VAT Law.

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