

HIGHLIGHTS OF PROPOSAL FOR AMENDED SPECIAL CONSUMPTION TAX LAW

MAI PHUONG

In order to meet the practical situation and ensure compatibility with the reform direction of special consumption tax (**SCT**) in other countries, the Ministry of Finance is currently developing a project of Amended SCT Law (**Project**). The Project is in the proposal development phase, thus the available amendment contents are just proposed policies and subjects without regulations on specific measures (for example, tax rates). However, given the significance and impact of SCT-related regulations on production and business activities, enterprises need to update information related to the Project development process in order to devise and implement suitable business plans accordingly. In this month's Legal Newsletter, NHQuang&Associates would like to introduce some notable contents of the Project that may impact business activities of enterprises so that Clients can get an overview about this document.

Extending the scope of taxable objects (supplementing taxable objects with appropriate tax rates)

The subjects to be supplemented in the scope of SCT imposition are products and services that are not beneficial to health or the environment and services that need to be restricted from using according to the guidelines of the Party and State, including:

(i) *Sugar-sweetened beverages (SSBs)*: The supplementation of SSBs to special consumption taxable objects is based on the provisions of the National Nutrition Strategy for the period of 2021-2030 with a vision to 2045 and the National Plan on prevention and control of non-communicable diseases and mental health disorders in the period of 2022-2025. In addition, the tax imposition is also consistent with WHO's recommendations to governments on taxing SSBs to guide consumption, encourage people to use healthy foods as well as taxing practice in the world in general and in the ASEAN region in particular (by 2021, at least 50 countries have imposed a tax on SSBs; among which



are 6/10 ASEAN countries).

(ii) *Barley drinks and non-alcoholic beverages*: Regarding non-alcoholic beverages, though alcohol has been separated during fermentation and natural flavors are added, this type of beverage has a similar production process and ingredients to those of beer - an item subject to SCT. Regarding barley drinks, besides the similarities in the production process and ingredients, these drinks retain both the appearance and the characteristic taste of beer. Therefore, the Ministry of Finance claims that it is necessary to include these two types of beverages in special consumption taxable objects to orient the consumption of these items.

(iii) *New tobacco products (for example, e-cigarettes, heated tobacco products, and hookahs) and new tobacco devices, parts and solutions*: According to WHO, the Ministry of Health and other health protection organizations, e-cigarettes, heated tobacco products, and hookahs all contain toxic ingredients that are as harmful to direct users and the people around them as traditional tobacco products, thus they can be recognized as forms of tobacco consumption. With such reason, WHO has recommended that countries (i) prohibit e-cigarettes or (ii) take measures to control these items by taxation as the current tax imposition on traditional tobacco products to increase product prices and reduce demand, thereby protecting public health. The above proposal is also based on the practice of imposing taxes on these items when there are more than 70 countries collecting SCT on e-cigarettes and more than 60 countries collecting tax on heated

tobacco products.

(iii) *Online video games* are considered items with great revenue and high profits compared to other types of businesses, attracting the population of all ages, especially young people. Therefore, the Ministry of Finance is currently studying to supplement the items to the objects subject to SCT to orient the consumption.

Adjustment of SCT rates for items harmful to health and items contributing to environmental protection

First, increasing SCT rate on products harmful to health (tobacco products, liquor products, beers): According to the Strategy on Tax System Reform to 2030, regarding SCT, it is necessary to "build a road map for increasing taxes on tobacco products, liquor products, beers to restrict the production and consumption thereof and to fulfill international commitments; review and adjust the special consumption tax rates on a number of items to suit socio-economic conditions in the 2021-2030 period". Accordingly, although the tax rate for these items has been recently increased according to the current roadmap, the consumption rate of tobacco products, liquor products, beers in Viet Nam is still high. It can be seen that the current roadmap to increase SCT has not yet reached the set-out target of reducing consumption, which requires further control of the use of these items. In addition, the SCT share in the retail price of tobacco products, liquor products, and beers in Viet Nam is still low compared to recommendations from WHO and the tax share reported in other countries. Currently, the SCT share of the retail price of tobacco products in Viet Nam is about 38.85%. Meanwhile, WHO recommends a minimum 75% tax share of the retail price of these products; this tax proportion in some regional countries is also relatively high, with Brunei at 81%, Thailand at 70%, and Singapore at 69%. Regarding liquor products and beers, currently the tax share in Viet Nam only accounts for about 30% of the retail price, while in many countries, the share accounts for 40-85% of the retail price.

Second, adjusting the SCT rate for some environmentally friendly products and overcoming the inadequacies arising in practice: Current SCT regulations are encouraging consumers to use automobiles powered by gasoline combined with electric energy and bio-energy (in which the proportion of gasoline used does not exceed 70% of the energy used) by applying a tax rate to this item equal to 70% of the applicable tax rate for other vehicles of the same type. In addition to automobiles powered by gasoline combined with electric energy and bioenergy, the Ministry of Finance claims that it is necessary to supplement tax incentives for vehicles using natural gas to encourage the production and use of these products.

The proposed amendments to the Amended SCT Law have received diverse opinions on the proposed items in the taxable object scope extension. For example, for SSBs, there are many opinions in favor of taxing, considering this a measure to guide consumption and reduce the rate of obesity and non-communicable diseases. However, there are also views that SCT imposition without a specific definition of SSBs can lead to the fact that many other healthy products, such as milk, special foods for children, pregnant women, may also be subject to SCT. Similarly, for new tobacco products, the legal system has not yet provided any definition of new tobacco and nicotine products. These products have not been officially circulated in Viet Nam and the management mechanism is still unclear. As a result, SCT imposition on new tobacco products may lead to the confusion that these products have been allowed to circulate in Viet Nam. Regarding online video games, the SCT is unlikely to have a consumer-oriented effect because players may not choose tax-imposed games licensed in Viet Nam and play games from other regions with cheaper fees and uncensored content instead. As mentioned above, the Project is still in the developing phase, so enterprises need to keep updating the Project's regulations to have early access to new policy changes.