

Draft Decree on supporting industries

On 3 November 2015, the Government issued Decree 111/2015/ND-CP (“Decree 111”) guiding the development of supporting industries (“SI”), focusing on a number of business sectors such as textiles - garment industry, shoe - leather industry, electronics industry, automobile manufacturing and assembly industry, mechanical engineering industry and supporting products serving for high-tech industry.

Currently, the Government and the Ministry of Industry and Trade are drafting a Decree amending Decree 111 (“the Draft Decree”) with the aim to clarify some regulations on determination of SI incentives, expanding the list of SI products, and also adding more criteria for entitlement of SI incentive.

Specifically, the notable changes include:

1. Determination of Expansion Investment Project (EIP)

The Draft Decree clarifies the criteria of a project to be considered as an EIP entitled to the SI incentive, which to be consistent with Corporate Income Tax Law. Accordingly, EIPs eligible for SI incentives need to meet one of the following criteria:

- Increase in the ratio of historical cost of fixed assets of at least 20%; or
- Increase in designed capacity of at least 20%.

2. Expanding the list of products eligible for SI incentives

The Draft Decree expands the definition of SI and supplements the list of SI products to cover more stages of production and more products in the production chain, specifically adding “processing” and “auxiliary materials” into the definition of SI. Notably, the Draft Decree adds more stages of production (for the textile industry); accessories (for textile, leather and footwear industries); components and components cluster (for the electronics, automobile manufacturing and assembly, mechanical engineering, and high-tech industries) to the List of SI products.

3. Conditions for entitlement of SI incentives

Although the list of SI products is expanded, the Draft Decree places greater limitations on qualifying for SI incentives by adding more prerequisite conditions, including product quality, technology, management system quality, environment, human resources, etc. In particular, the Draft Decree proposes to supplement the requirement on the localization rate of at least 20% of the number of Vietnamese suppliers participating in the provision of raw materials and auxiliary materials, components and spare parts to serve the production of SI products **or** the value of domestic materials of at least 20%.

The proposed additional conditions raise a challenge for businesses in improving project quality as well as ensuring the participation of Vietnamese enterprises in the supply chain to meet the conditions for the entitlement to SI incentives.

4. Time to supplement and complete the application for confirmation of SI incentives (“SI application dossier”)

The Draft Decree stipulates the time limit for supplementing and completing SI application dossiers is 30 working days. After 30 working days, if the enterprise does not supplement the dossier as required, the submitted dossier is considered as ineligible for SI incentives and will be returned to the enterprise.

Therefore, the SI application dossier should be well prepared with all required information to mitigate the risk of rejection.

The Draft Decree is still in the process of being finalized for submission to the Government. We will continue to update you on the drafting and issuance of the Draft Decree. Should you need any further clarification, please do not hesitate to contact KPMG.

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