



Grant Thornton

WEBINAR

TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



Sir Hoang Hai Pham

Executive Director
--- ICHAM ---



Ms Bui Kim Ngan

Tax Director
--- Grant Thornton Vietnam ---



Mr Hoang Viet Dung

Tax and Transfer Pricing Director
--- Grant Thornton Vietnam ---

Co-host



THU . 16TH SEP
3PM - 4:30PM
(Vietnam time)



zoom

TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



Opening Remarks

Moderator: Sir Hoang Hai Pham

Executive Director
Italian Chamber of Commerce in Vietnam

TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



Sir Hoang Hai Pham

Executive Director
--- ICHAM ---

Joined the Italian Chamber of Commerce in Vietnam (ICHAM) since 2012 as Head of Hanoi office, Mr. Pham Hoang Hai - now Executive Director of ICHAM, has been and continues to contribute greatly on bilateral trade promotion between Italy and Vietnam and market entry. During the years, he gained extensive experience in Market entry, Business development, International trade promotion and FDI consultancy for Italian companies in Vietnam. Since April 2014, Mr. Hai has been taking on another role as Asia Coordinator where he coordinates various joint-projects between the 11 Italian Chambers of Commerce in Asia. In 2019, he was conferred the title Knight of Order of the Star of Italy by the President of Republic of Italy H.E.Mattarella.



Ms Bui Kim Ngan

Tax Director
--- Grant Thornton Vietnam ---

Ms Ngan has nearly 15 years working experience in consulting profession and advisory services on taxation and investment specifically on tax planning, due-diligence, payroll system establishment, licensing services, corporate governance and compliance procedures for multinational companies. Ms Ngan's experience covered wide range of businesses, including of manufacturing, construction, service, IT, trading, foreign contractor and foreign trader's representative office.



Mr Hoang Viet Dung

Tax and Transfer Pricing Director
--- Grant Thornton Vietnam ---

Mr Dung has had more than 10 years experience working in providing Corporate Tax, International Tax and Transfer Pricing services for local and multinational companies in many industries and sectors in Vietnam, including manufacturing, trading and retail, construction, etc. Mr Dung is mainly responsible for consultancy engagements including licensing advisory, taxation review, tax restructuring, M&A tax, customs advisory, Transfer Pricing compliance and advisory and he also has strong experience dealing directly with local authorities at working level or policy making level.

TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



AGENDA

3:00 - 3:05	Welcome Speech <i>by Sir Hoang Hai Pham – Executive Director of ICHAM</i>
3:05 - 3:30	Tax - Labour Policies during Covid-19 period and Tax Audit preparation <ul style="list-style-type: none">• Some policies on tax and labor during COVID-19 period• Tax audit procedures and how to prepare <i>by Ms. Bui Kim Ngan – Tax Director of Grant Thornton Vietnam</i>
3:30 – 4:05	Vietnam Transfer Pricing <ul style="list-style-type: none">• Overview• Key matters for FDI companies in Vietnam• Transfer Pricing audit trend in a new normal <i>by Mr. Hoang Viet Dung - Tax and Transfer Pricing Director of Grant Thornton Vietnam</i>
4:00 – 4:25	Q&A session
4:25 – 4:30	Closing remarks

TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



Tax - Labour Policies during Covid-19 period & Tax audit preparation

Speaker: **Ms. Bui Kim Ngan**
Tax Director
Grant Thornton Vietnam

WEBINAR:

Tax - Labour policies during Covid-19 period and Tax audit preparation

Bui Kim Ngan

Director, Tax Services
Grant Thornton Vietnam



Content

01

Some policies on tax and labor
during COVID-19 period

02

Tax audit procedures and how to
prepare



Some policies on tax and labor during COVID-19 period

1.

NEW GUIDELINES ON CORPORATE INCOME TAX (“CIT”)

Deductible expenses related to Covid-19

Sponsoring
expense for
Covid-19
prevention
activities

Supporting
expense for
employees to
suspend labor
contracts

Quarantine
expenses at
hotel agreed in
the labor
contract/
company
policy

Airfare cost

- Decree 44/2021/ND-CP
- Official Letter 31557/CTHN-TTHT
- Official Letter 4073/TCT-CS
- Official Letter 5032/TCT-CS
- Official Letter 5032/TCT-CS

NEW GUIDELINES ON CORPORATE INCOME TAX (“CIT”)

Deductible expenses related to Covid-19

Testing Covid-19 expense

- Official Letter 5032/TCT-CS

Quarantine expenses for expatriate

- Official Letter 1099/CT-TTHT
- Official Letter 5032/TCT-CS

Salary for expatriate without Work Permit during Quarantine

- Official Letter 2099/CT-TTHT

Salary for employees during Social distancing, job waiting

- Official Letter 89924/CT-TTHT
- Official Letter 4073/TCT-CS

NEW GUIDELINES ON PERSONAL INCOME TAX (“PIT”)

QUARANTINE COST

Quarantine expense at hotel,
air ticket, testing



The Covid-19 Quarantine of the expatriate including hotel, flight ticket, virus testing is paid by the Company when entering Vietnam



OL 5032
(General Department of Taxation)

Hotel expenses, Company
paid on behalf



The quarantine expenses at the hotel upon entry, paid by the Company, will be included in the taxable income for PIT according to the actual amount paid but not exceeding 15% of the total taxable income excluding these expenses



OL 2548, 5424
(Hai Phong & Hai Duong Tax
Department)

Company pays for both the
hotel and the
accommodation fee



The quarantine expenses at hotel
is included in taxable income for
PIT calculation

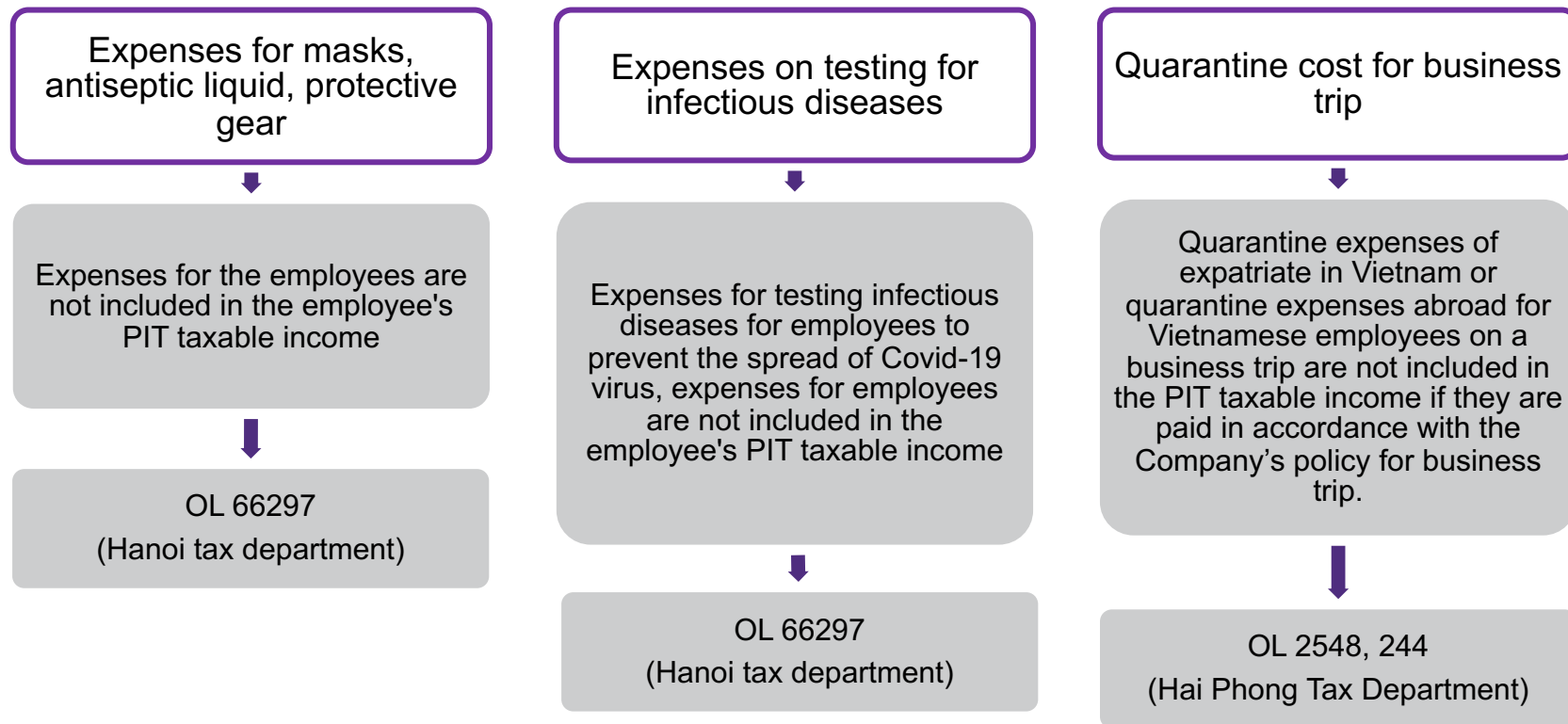


House rental fee during quarantine
period is not included in taxable
income



OL 352, 317
(Bac Ninh Tax Department)

NEW GUIDELINES ON PERSONAL INCOME TAX (“PIT”)



TAX DEFERRAL POLICY



Decree No. 52/2021/ND-CP			
Enterprises	VAT (except VAT paid upon importation of good)	<ul style="list-style-type: none"> March – June 2021 1st and 2nd Quarter 2021 	5 months deferral
		July 2021	4 months deferral
		August 2021	3 months deferral
	CIT	1 st and 2 nd Quarter 2021	3 months deferral
	Land rental	Annual payment of rents due in beginning of 2021	6 months from 31 May 2021
Household businesses & individuals	VAT	FY2021	Deadline deferred to 31 December 2021
	PIT		

PROPOSAL FOR TAX DEDUCTION

APPROVED

A 30% CIT payable reduction for the tax year 2021 (for enterprises with total revenue of VND 200 billion or less)

A 50% income tax payable reduction for the last 2 quarters of 2021 for business households and individuals

REJECTED

A 30% value added tax (VAT) reduction for enterprises and organizations operating in certain service sectors

Exemption from late payment interest arising in 2020 and 2021 for enterprises that have incurred continuous losses in 2018, 2019 and 2020 due to the COVID-19 pandemic

LABOUR SUPPORT POLICY

Resolution No. 68/NQ-CP



Decision No. 23/2021/QD-TTg



For enterprises:

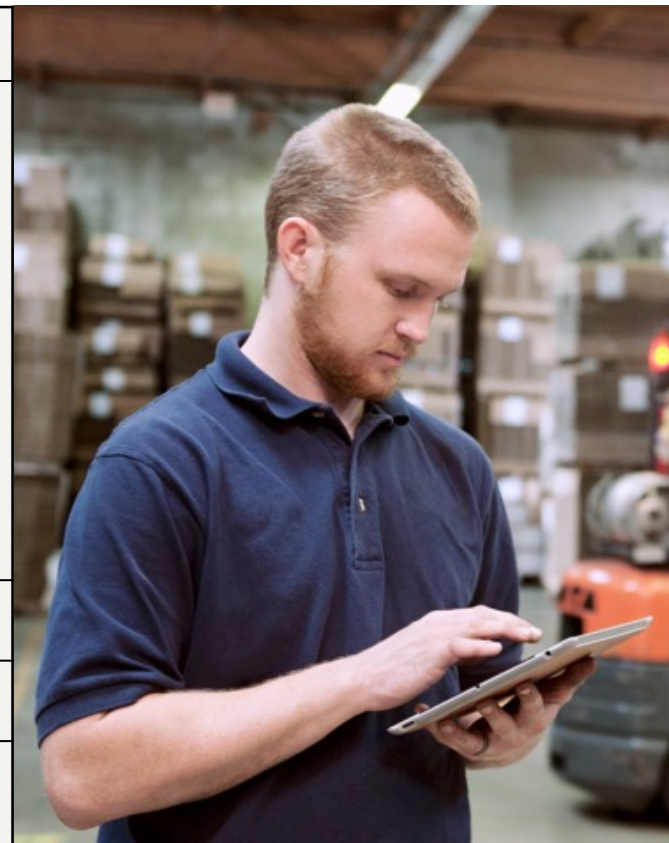
- Reduction in insurance premiums for occupational accidents and diseases from 0.5% to 0% for 1 year period from July 2021
- Suspension of contributions to the retirement and survivorship fund
- Loan policy to pay wages during quarantined period, wages for production recovery

For employees:

- Assistance policy for employees on suspension of employment contracts or unpaid leave
- Supporting policy employees are subject to quarantine or in a locked down area
- Supporting policy for employees terminated their employment contracts but not eligible for unemployment allowance

LABOUR SUPPORT POLICY

Reduction in Health Insurance contribution	
Applicable subjects	<ul style="list-style-type: none">▪ Employees temporarily suspending the performance of labor contracts;▪ Employees taking unpaid leave at units that are temporarily suspended at the request of competent state authorities to prevent and control the Covid-19 pandemic▪ Maintain health insurance cards for employees who have lost their jobs and have been contributed compulsory insurance for 02 years before losing job
Employer	3% => 0%
Employee	1.5% => 0%
Applicable period	June 2021 – January 2022



LABOUR SUPPORT POLICY

**Decision No. 3089/QĐ-TLĐ by
Vietnam Trade Union**



Meal allowance support

Unionists and employees of enterprises paying union dues and implementing the "three-on-the-spot" working regime

Support VND
1,000,000/person/one-off

Effective from 24 August 2021

A background image showing three business professionals (two men and one woman) walking in front of a modern, multi-story building with a grid-like facade. The woman is in the center, gesturing with her hand. The two men are on either side of her, all dressed in business attire. A semi-transparent dark blue banner is overlaid across the middle of the image, containing the title text. In the bottom left corner, there is a large white number '2.'

Tax audit procedures and how to prepare

2.

TAX AUDIT/INSPECTION RESULTS IN FY2020

- Carried out **83,979** tax audit/inspections at the taxpayer's headquarters
- Checked out **804,590** tax dossiers at Tax authorities
- Total tax revenue increased to the state budget is **19,867 billion VND**; deduction of **2,248 billion VND**; loss is **49,760 billion VND**.
- The total amount of tax paid to the state budget is **12,435 billion VND**.
- Tax debt decreased by **5.5%** compared to the same period in 2019
- Ratio of total collectible debt to total revenue in 2020 is at **4.4%**

TAX AUDIT/INSPECTION PLAN IN FY2021



Strengthen the management of collection, prevent the loss of revenue, speed up the collection of tax arrears; Speed up inspection and control of tax declaration and payment;



Strictly manage tax refund, ensure tax refund to the right subjects, in accordance with legal policies;



Develop and implement inspection plans, focusing on enterprises in high-risk industries and fields;



Well implement the prevention of revenue loss for non-state enterprises and business households

1.116.700

billion VND

Estimates of State budget revenue in 2021 assigned by the National Assembly

5%

The target of total tax debt as of 31 December 2021 does not exceed **5%** of total state budget revenue in 2021



Some results have been achieved in the first 6 months of 2021:

- **32.2 thousand** inspection ~ **110%** over the same period in 2020;
- The total amount proposed to be handled is **VND 22,963 billion** in which: arrears tax amount is VND 4,935 billion, the VAT creditable reduces **VND828 billion**, the loss carried forward reduces **17,200 billion**.

TYPES OF TAX AUDIT

Tax audit on tax
authorities' office



Tax audit on customs
authorities' office



Tax audit on
taxpayers' office

TAX AUDIT PROCEDURE IMPLEMENTED BY TAX AUTHORITIES

Develop audit plan for the year

1. Prepare a plan => Develop the plan => Approve the plan => Adjust the plan
2. In case of unexpected audit:
 - Detecting organizations and individuals showing signs of tax law violations;
 - Settlement of tax complaints and denunciations;
 - Split, merger, consolidation, dissolution, bankruptcy, equalization in accordance with the law;
 - To inspect taxpayers at the request of heads of tax agencies at all levels or the Minister of Finance.

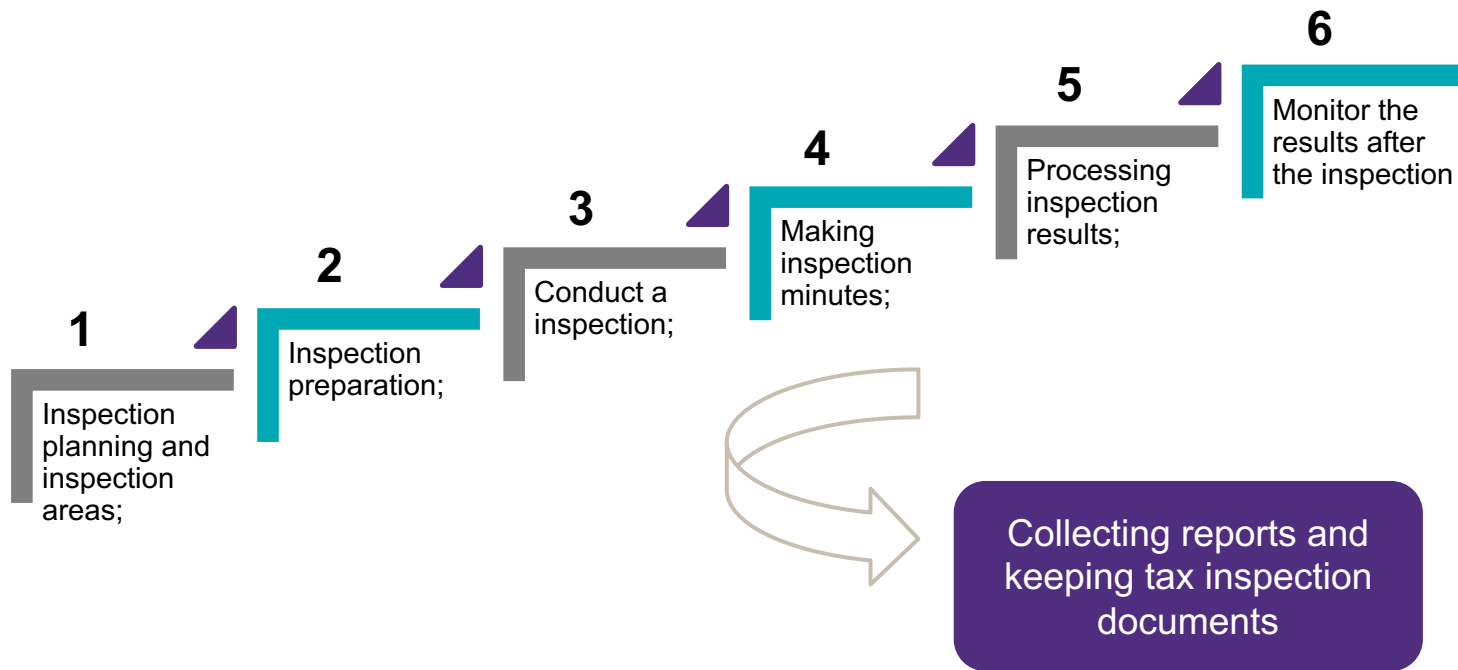
Audit at the taxpayer's office

1. Prepare and issue audit decisions
2. Conduct an audit
3. End of audit:
 - Report results: No later than 15 working days from the date of audit completion
 - Audit conclusion: Within 15 working days from the date of receiving the audit result report
 - Publicize audit results

Import audited data and reporting mode

1. Input data into the system
2. Reporting mode:
Every month, every year, the audit department at tax authorities at all levels must review the results of audit work on the application of the TTR system; at the same time, report the results of the audit and submit it to the leaders of the tax authorities at the same level and send it to the immediate superior tax authorities.

TAX INSPECTION



TAX AUDIT & TAX INSPECTION

Cases Tax Audit and Tax Inspection being performed at enterprises:

Tax Audit	No.	Tax Inspection
Failing to explain or supplement documents and dossiers as required after the tax authority has checked the tax records at the tax office's office	1	Annual inspection plan
There are signs of legal violations – through risk analysis and management	2	There are signs of breaking the law
Check before tax refund and check after tax refund	3	Resolve the complaint report
Cases are selected according to the annual plan and topic	4	At the request of the head of the tax office or the Minister of Finance
Division, separation, merger, consolidation, dissolution, bankruptcy, equitization, tax closure, business location relocation	5	
Other unexpected cases	6	

TAX AUDIT & TAX INSPECTION PROCEDURE

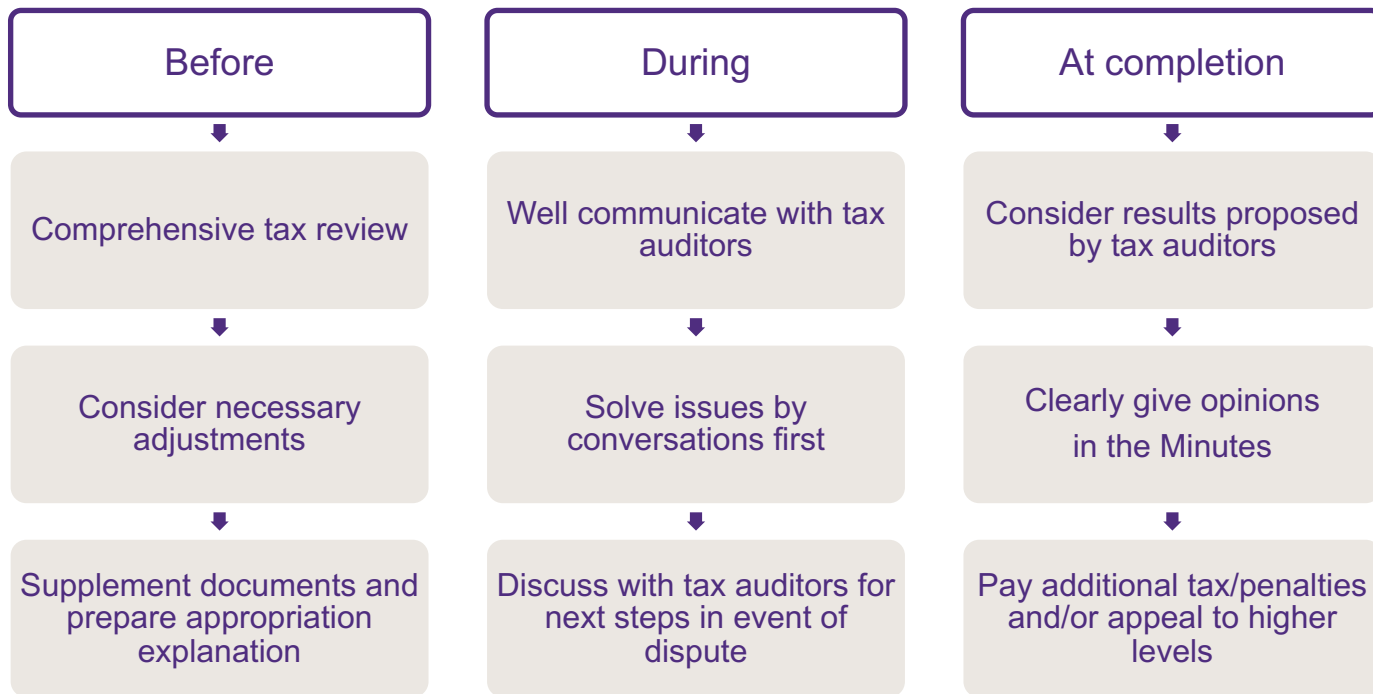
Tax Audit		Step	Tax inspection	
Action	Timeline		Action	Timeline
Sign the tax audit decision and send it to the taxpayer then announce the decision on tax audit	No more than 3+7 working days	1	Sign the tax inspection decision and send it to the taxpayer then announce the decision on tax inspection	No more than 3+12 working days
Working at enterprise's office	No more than 10 + 10 working days	2.1	Working at enterprise's office	<ul style="list-style-type: none"> - Conduct by GDT: 45 + 25 working days - Conduct by Local Tax Department : 30 + 15 working days
Issuing tax audit minutes	No more than 05 working days	2.2	Issuing tax inspection minutes	Upon the completion of the field work
Enterprise signs the tax audit minutes	Within 5 working days	2.3	Enterprise signs the tax inspection minutes	No specific requirement deadline

TAX AUDIT & TAX INSPECTION PROCEDURE

Tax Audit		Step	Tax inspection	
Action	Timeline		Action	Timeline
Issue a decision on sanctioning tax administrative violations or conclude an audit if there is no violation	No more than 07 + 23 working days	3.1	Issue a decision on sanctioning tax administrative violations or conclude an inspection if there is no violation	No more than 30 working days
Not applicable		3.2	Issue the conclusion of tax inspection (with the requirement of tax payer's confirmation)	No more than 15 days upon receipt of report on tax inspection's results from tax inspection team.
Enterprise disagree: Submit a complaint	Within 90 days from the date which the decision was issued	4	Enterprises disagree: Submit a complaint	Within 90 days from the date which the decision was issued
Complaint handling: • Complaint handling in 10 days • Settlement within 45 days from the date of handling approval	No more than 55 days	5	Complaint handling: • Complaint handling in 10 days • Settlement within 45 days from the date of handling approval	No more than 55 days

HOW TO BE WELL-PREPARED FOR TAX AUDIT

Tax audit process



How Grant Thornton can assist you



Perform tax review to identify tax risks



Recommendation for improvement and strategies



Pre-audit assistance, tax audit assistance and post tax audit review



Assistance in preparation and obtaining ruling from tax authority



Assistance in tax appeals

Contact us

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, transfer pricing, accounting, labor, investment and customs as well as other legal issues you may have during your business operation.



Hoang Khoi

Partner, Tax Services

T +84 24 3850 1600

D +84 24 3850 1688

M +84 904 210 999

E Khoi.Hoang@vn.gt.com



Bui Kim Ngan

Tax Director

T +84 24 3850 1600

D +84 24 3850 1716

M +84 904 338 349

E Ngan.Bui@vn.gt.com

Thank you

Visit our Tax Hub for more
newsletters and events

SCAN ME



TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



Vietnam Transfer Pricing

Speaker: **Mr. Hoang Viet Dung**
Tax and Transfer Pricing Director
Grant Thornton Vietnam

WEBINAR:

Vietnam Transfer Pricing

Hoang Viet Dung

Director, Tax and Transfer Pricing Services
Grant Thornton Vietnam



Content

01

Overview of Transfer pricing regulations in Vietnam

02

Key transfer pricing matters for FDI companies in Vietnam

03

Transfer Pricing audit trend in a new normal

Part 1

Overview of Transfer pricing regulations in Vietnam

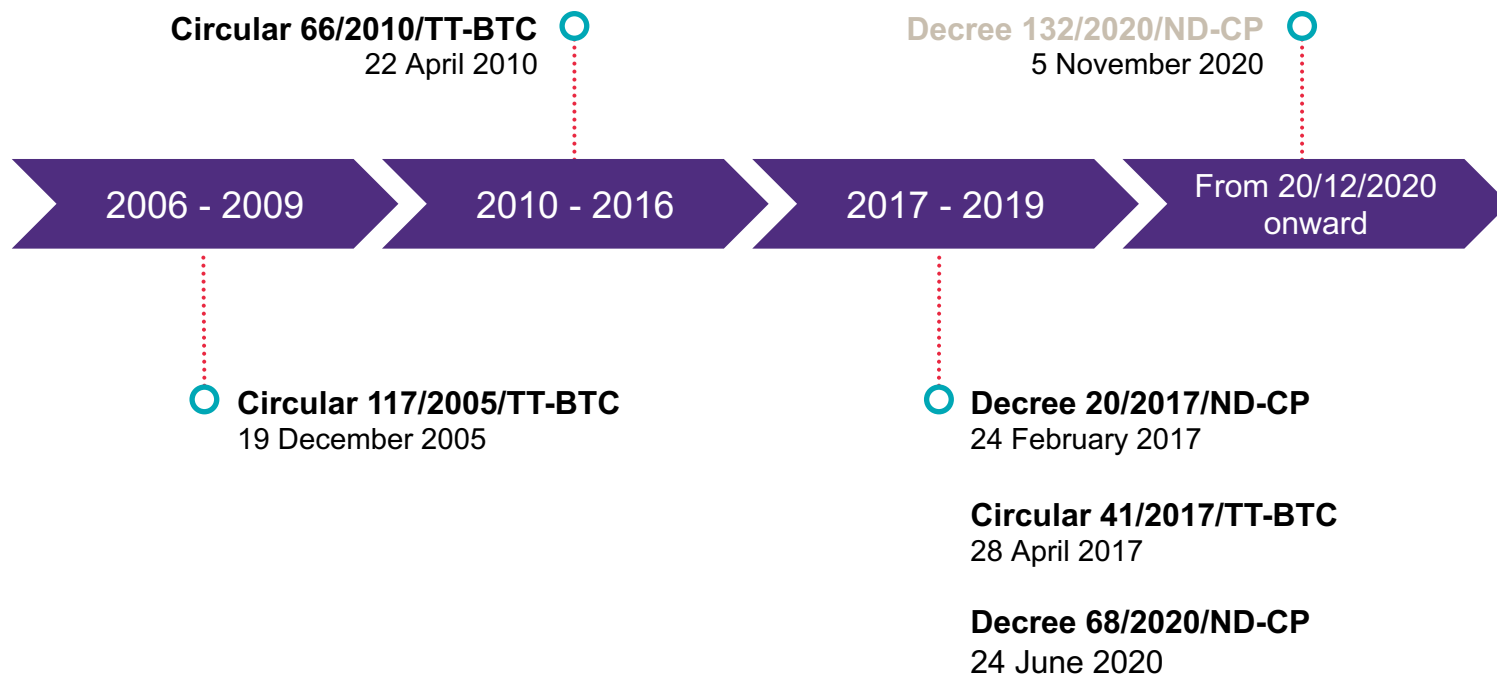


1. Vietnam transfer pricing regime

2. Filing requirement

3. Highlights in Decree 132/2020/ND-CP

VIETNAMESE TRANSFER PRICING REGIME



Part 1

Overview of Transfer pricing regulations in Vietnam

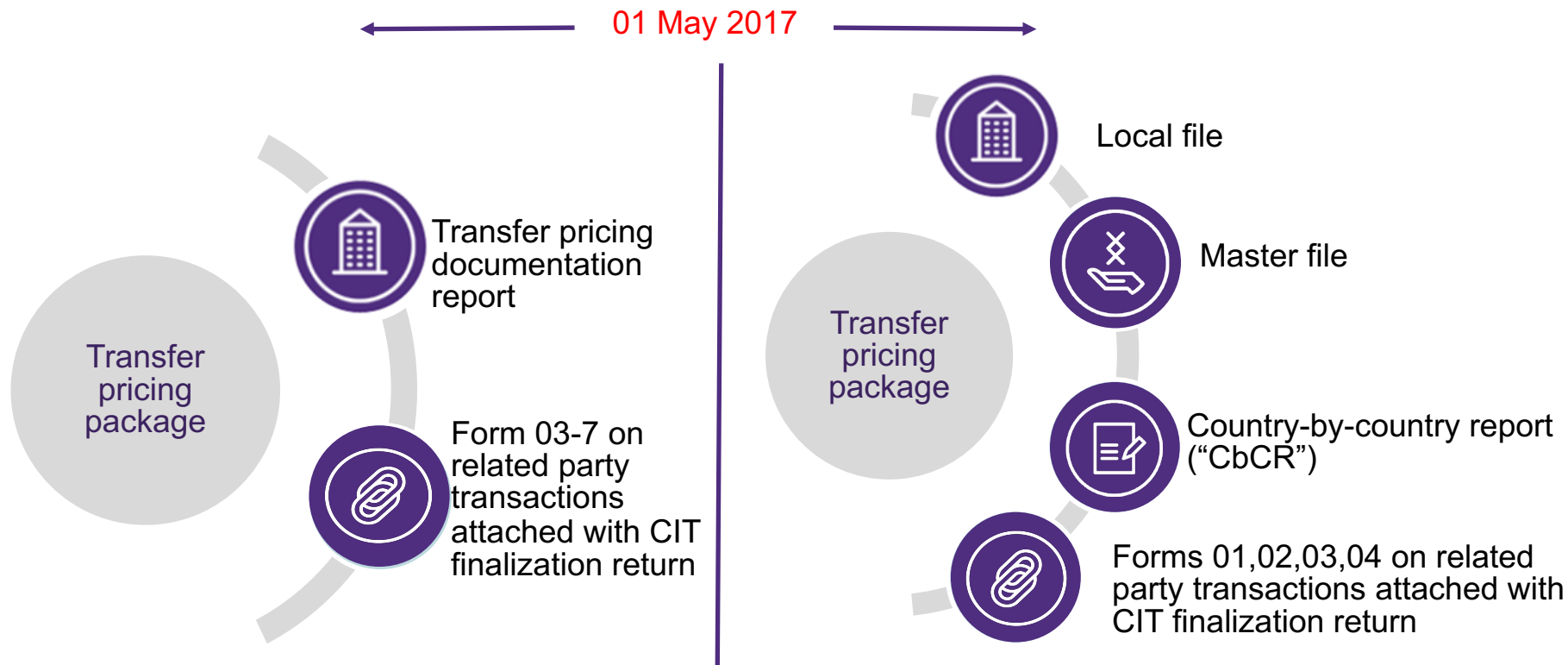


1. Vietnam transfer pricing regime

2. Filling requirement

3. Highlights in Decree 132/2020/ND-CP

FILING REQUIREMENT



FILLING REQUIREMENT

CbCR filling requirement under Decree 132

1

Ultimate Parent Company (“UPC”) in VN (with consolidated revenue over VND18,000 billion):
12 months after the end of the fiscal year

2

Foreign owned companies with an overseas UPC, the CbCR is not required to be filed locally if such CbCR is made available to the Vietnamese tax authorities through the Automatic Exchange of Information (“AEOI”) procedure.

3

A company is required to submit the CbCR locally within 12 months from the year-end in the following circumstances:

- The UPC’s country has a tax treaty with Vietnam but has not sign Multilateral Authority Agreement on AEOI with Vietnam
- The MNEs group has more than 1 subsidiary in VN, UPC has to inform VN tax authority of the subsidiary to file CbCR on behalf of UPC

The deadline of such submission is unclear

4

Where overseas UPC is not obliged to file CbCR in its host country, international tax treaties shall apply

It seems that no submission is required

Part 1

Overview of Transfer pricing regulations in Vietnam



1. Vietnam transfer pricing regime

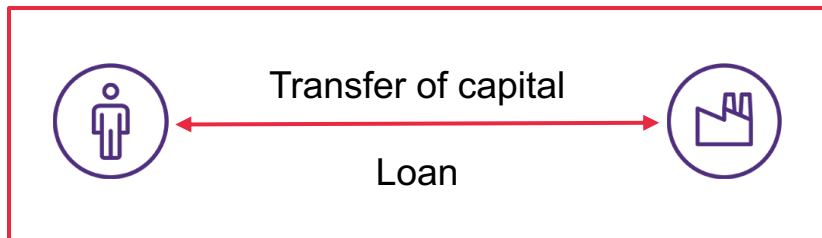
2. Filing requirement

3. Highlights in Decree 132/2020/ND-CP

HIGHLIGHTS IN DECREE 132/2020/ND-CP

1. Supplementing definition of “related party”

Related party relationship has been supplemented with individual – enterprise, emphasizing on capital transfer (**at least 25% charter capital**) and loan (**equivalent to at least 10% charter capital**) with executive individuals.



HIGHLIGHTS IN DECREE 132/2020/ND-CP

2. Increase of maximum deductibility of interest expenses

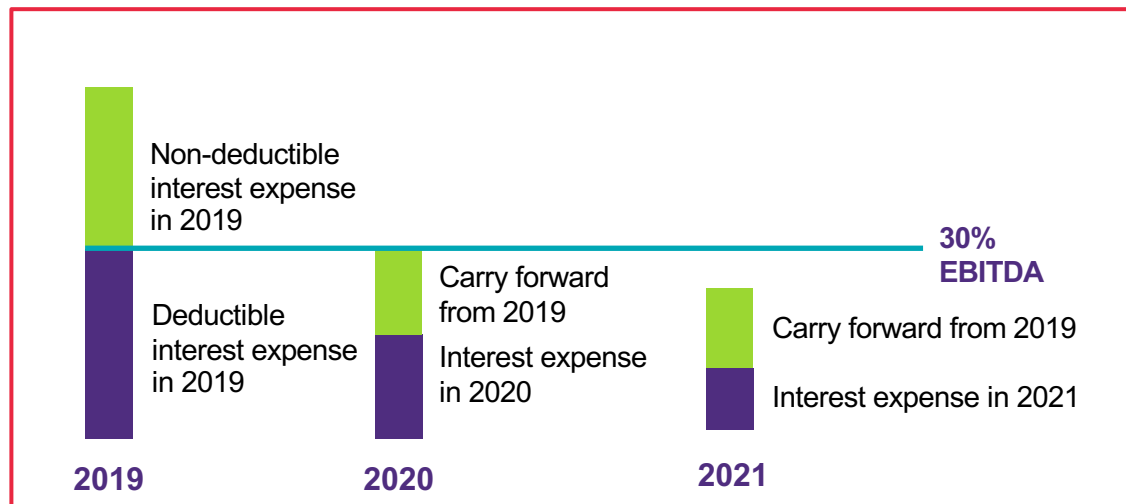
30%

Maximum cap of deductible interest expenses increased to 30% **net** EBITDA

Can apply retrospective regime for 2017, 2018, 2019

5 years

Nondeductible interest expense is allowed to be carried forward to max of 5-year period

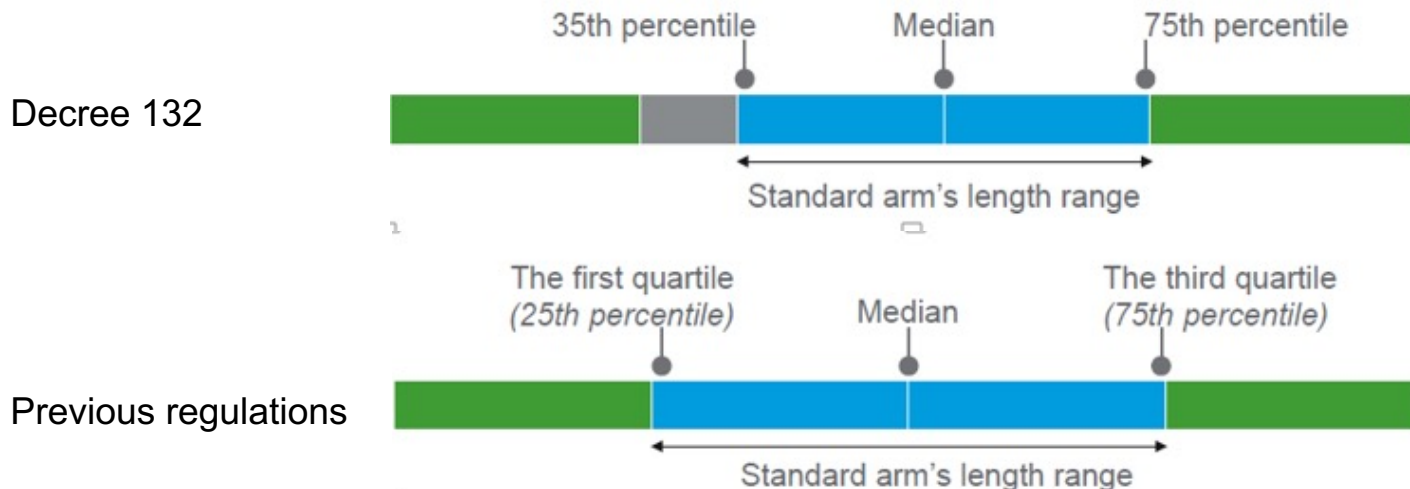


*In case EBITDA < 0, it's unclear on whether entire interest expense or **net** interest expense is non-deductible.*

HIGHLIGHTS IN DECREE 132/2020/ND-CP

3. Narrowing arm's length (market) range for pricing in controlled transaction

The arm's length range has been regulated to extend from 35th percentile to 75th percentile (comparing to the 25th-75th range in the previous regulations)



HIGHLIGHTS IN DECREE 132/2020/ND-CP

4

Extend the definition of Commercial Database

Decree 132 expands the scope of collecting financial and economic data sources for benchmarking analysis to commercial database of data companies/organizations providing archived, standardized and updated information sources.

Previously under Decree 20, comparative data sources were limited to databases provided by data companies/organizations **from publicly available sources**.

Highly recommend to use “Listed comparables” in Vietnam

5

Country-by-Country Report regulations

In case the taxpayer is the Ultimate Parent Company in Vietnam (with consolidated revenue over VND 18,000 billion): 12 months after the end of the fiscal year.

Supplement the regulations on the case where the Ultimate Parent Company is required to submit Country-by-Country Report to the authority of the country of residence.

In case the Ultimate Parent Company of the taxpayer is not required to submit the Country-by-Country Report according to the regulations of the country of residence, the international tax treaty shall be applied.



Grant Thornton

Part 2

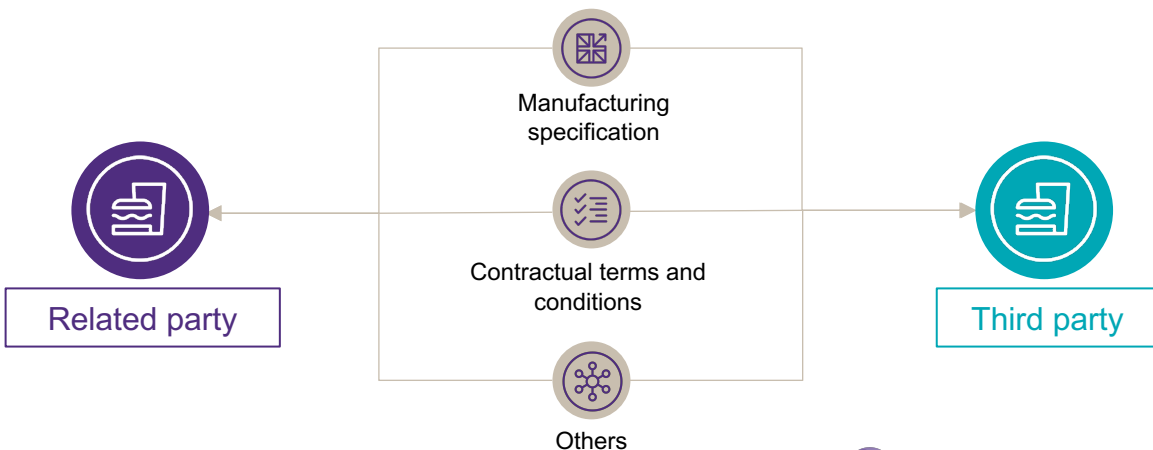
Key transfer pricing matters for FDI companies in Vietnam



1. Internal sale/ purchase transactions
2. Intragroup transactions
3. Technology transfer/ royalty fee/ Trademark fee
4. Finance transactions

INTERNAL SALES/ PURCHASE TRANSACTIONS

- Sales/ Purchases of generic products between related parties and third parties could be subject to scrutiny from tax auditor to apply Comparable Uncontrolled Price (CUP) Method.
- Selling price/ Purchasing price of same products to/ from third parties will be taken basis to adjust related party transactions (and give rise to additional tax obligations).





INTRAGROUP TRANSACTIONS

Intra-Group services (i.e. management fee, shared service charges, etc.) could be subject to aggressive challenges from tax authority.

Challenges



- Fixed fee nature
- Allocation basis/ Pool of cost
- Supporting documents
- Benefit test

ROYALTY FEE/ TRADEMARK FEE

Currently, tax authorities are paying a lot of attention to technology transfer transactions for enterprises with related party transactions, leading to the risk of enterprises being adjusted for royalty transaction prices or having the related expenses being considered as non-deductible for CIT calculation purpose.



Enterprises cannot prove the benefits they receive from technology transfer activities

Solution

Prepare reasonable explanations, arguments, and perform benefit test to prove the value of technology transfer activities to enterprises.



Enterprises cannot provide sufficient supporting documents to prove the nature of the transaction

Solution

Prepare and keep full records of documents, prepare evidence test to prove that the Technology has actually been transferred.



The royalty rate is too high in comparison to the market price

Solution

In application of Comparable Uncontrolled Price (CUP) Method, perform a separate benchmarking to determine the appropriate price for the transaction.



Grant Thornton



ROYALTY FEE/ TRADEMARK FEE

Supporting documents for royalty expenses/ trademark fee

- Contract
- Dossier of the technology transfer (e.g. drawing, technical information, etc.)
- Evidence of the technology transferred (e.g. emails, reports, etc.)

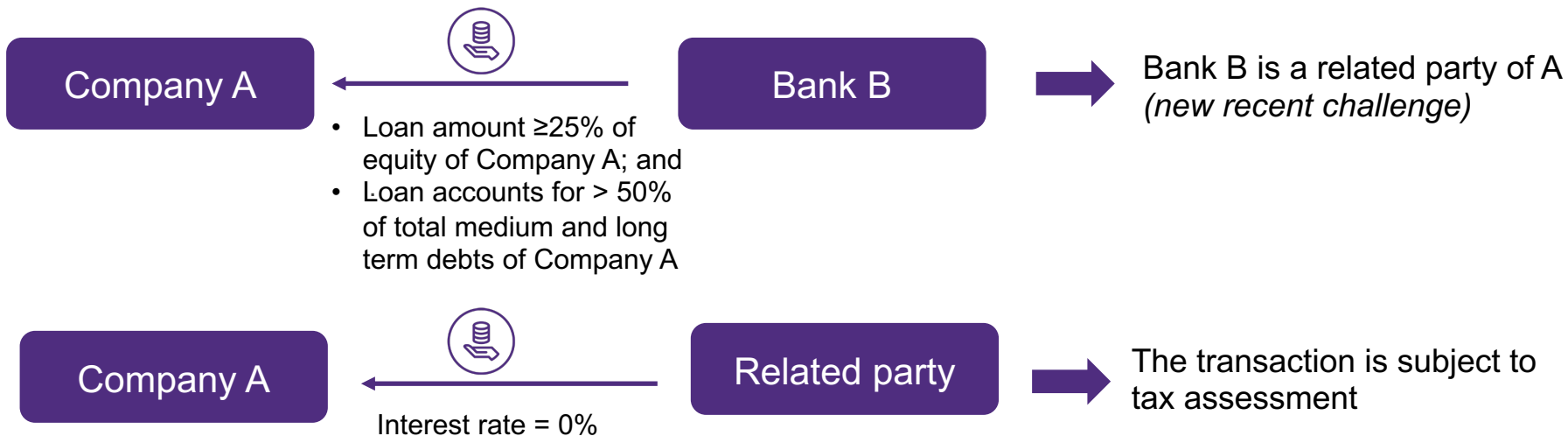
Registration of Technology transfer agreement ("TTA")

- TTA contracts from abroad signed after 1 July 2018 must be registered
- The registration may also be required if in case of "extension" of the TTAs signed before 1 July 2018

Registration of trademark

- Trademark should be registered in Vietnam before transfer

FINANCE TRANSACTIONS



Part 3

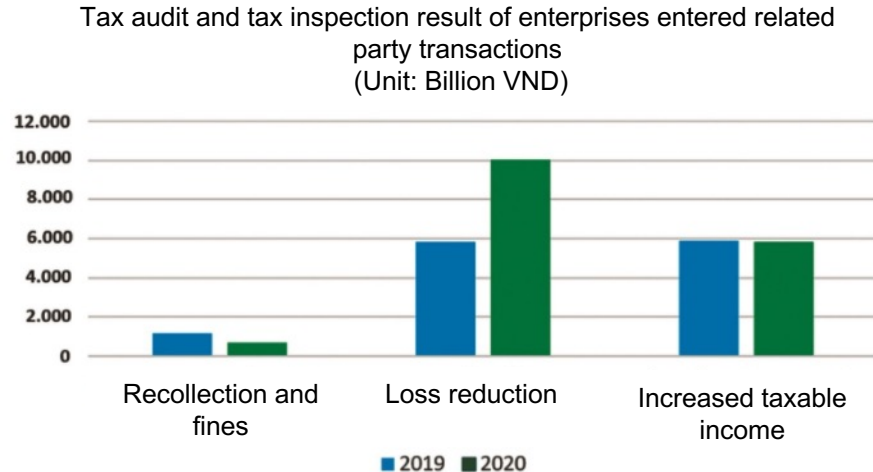
Transfer Pricing audit trend in a new normal



1. **Transfer pricing audit results in recent years**
2. **Common areas to be challenged by transfer pricing auditors**
3. **Recommendations and notable points during transfer pricing audit**

TRANSFER PRICING AUDIT RESULTS IN 2020

- Audited/Inspected of **339** enterprises with related party transactions
- Recollection and fines of **681.51 billion VND**; loss reduction of **10,046.23 billion VND**; decrease deduction of **9.25 billion VND** and increase taxable income by **5,840.82 billion VND**
- Inspection and re-determination of market prices for related party transactions with recollection of **361.02 billion VND**, loss reduction of **3,874.01 billion VND**, adjustment to increase taxable income of **4,632.93 billion VND**.



Source: General Department of Taxation and thoibaonganhang.vn

TRANSFER PRICING AUDIT RESULT IN THE FIRST 4 MONTHS OF 2021



There are **600 enterprises** inspected and **12.733 enterprises** examined.



The tax authorities have audited and inspected **22 enterprises** entered related party transactions.



Recollection and fines of **VND628 billion**, loss reduction of **VND765 billion**, decrease deduction of **VND94.9 billion** and increase taxable income of **VND208.7 billion** from Transfer Pricing audit and inspection.

Recollection from inspecting and re-determining the market price for related party transactions amounted to **VND590.4 billion**, loss reduction of **VND672.9 billion** and increase taxable income of **VND166 billion**.



Source: vov.vn

Part 3

Transfer Pricing audit trend in a new normal



1. Transfer pricing audit results in recent years
2. Common areas to be challenged by transfer pricing auditors
3. Recommendations and notable points during transfer pricing audit



No Transfer
Pricing Forms/
Documentations



Big loss situation,
accumulated
losses for many
years



Related party
business segment
with lower result



Failure to comply
with applicable
regulations on
related
transactions



Incurred
transactions such
as royalties,
trademarks,
management
service fees, etc.
with related
parties



Enter transactions
with related parties
in countries with
low CIT rates, tax
havens



COMMON AREAS TO BE CHALLENGED BY TRANSFER PRICING AUDITORS

Part 3

Transfer Pricing audit trend in a new normal



1. **Transfer pricing audit results in recent years**
2. **Common areas to be challenged by transfer pricing auditors**
3. **Recommendations and notable points during transfer pricing audit**

RECOMMENDATIONS AND NOTABLE POINTS

Form 01 declaration

Declaration of TP Form 01 – Related transactions

- Related transactions value
- Method of determining market price
- Accurately separate business results by segment in Section IV
- Profit margin used to determine related transaction price

Comply with the Local File Regulation

- Data used when performing comparative analysis
- The market price comparison method used
- Make adjustments for material differences

Notes when performing comparative analysis

- Comply with current regulations on comparative analysis
- Ensure reliability when performing comparative analysis
- Ensure similarity when performing comparability

Comply with the Master File Regulation and the Country-by-Country Reporting (“CbCr”)

- Comply with the required contents in TP Form 03
- The contents of the Master File must be consistent with the Local File
- Provide reasonable explanations in case of unfavorable business results

Local file compliance

Data used when performing benchmarking analysis

- Internal data shall prevail.
- Prioritize using data of domestic comparables.

Transfer Pricing method adopted

- In addition to net margin method (TNMM), apply the CUP method to commodity transactions when possible
- For specific transactions (i.e. interest expenses, royalty, v.v.), a separate benchmarking analysis adopting the CUP method is required.
- Matching with Disclosure TP Forms

Adjustment for material differences

- If the foreign comparables are used for benchmarking analysis, adjustment should be made for material differences in functions, risks and assets.



Notes when performing benchmarking analysis



Comply with current regulations on benchmarking analysis

Number of comparables, the independence of comparables, etc.



Ensure reliability when performing benchmarking analysis

Reliability of data, supporting documents served as a basis for benchmarking analysis and price determination.



Ensure comparability when performing benchmarking analysis

Comparable in industry, geographical market, qualitative and quantitative indicators, etc.

Master File and Country-by-Country report compliance

Comply with the requirement in Form 03 on related party transactions

Master file should provide all the information mentioned in Appendix 03/GDLK to ensure compliance requirements.

Master File should be consistent with Local File

The FAR profile of the Company and its related parties as well as other information mentioned in the Country-by-Country Report should be consistent with the correspondence mentioned in the Local File.

Provide reasonable explanation in case of unfavorable business result

In the event when the profit margin of Vietnamese company declines contradicting to the overall good business result of the Group presented in the Master File, appropriate and reasonable explanations should be required.



Typical transfer Pricing cases

Routine entities such as Contracted Manufacturers or Limited Risk Distributors having unfavorable profit result

Concerns

- ✓ Benchmarking results
- ✓ Portion of related parties transactions
- ✓ Internal sale data
- ✓ True-up adjustments
- ✓ Voluntary TP adjustments
- ✓ Pricing policy



Typical transfer Pricing cases

Parent company charges for royalty fee

Concerns

- ✓ Substance of the royalty fee
- ✓ Rate of the royalty fee
- ✓ Scope royalty contract



Contact us

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, transfer pricing, accounting, labor, investment and customs as well as other legal issues you may have during your business operation.



Hoang Khoi

Partner, Tax Services

T +84 24 3850 1600

D +84 24 3850 1688

M +84 904 210 999

E Khoi.Hoang@vn.gt.com



Hoang Viet Dung

Tax and Transfer Pricing Director

T +84 24 3850 1600

D +84 24 3850 1687

M +84 983 433 435

E Dung.Hoang@vn.gt.com

TAX AND TRANSFER PRICING REGULATIONS IN VIETNAM - BUSINESS IMPACTS IN A NEW NORMAL



Thank you!



Italian Chamber of Commerce in Vietnam

Contact info

The Italian Chamber of Commerce in Vietnam

Tel: (+84) 28 3822 4059

Email: info@icham.org

Website: www.icham.org



Grant Thornton

Contact info

Grant Thornton

Tell: +84 983 433 435

Email: Dung.Hoang@vn.gt.com

Website: <https://www.grantthornton.com.vn/>