



Global Tax Update

Vietnam

Deloitte Tohmatsu Tax Co.

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1. Transfer pricing declaration return - Form 03-7/TNDN

Pursuant to the Circular 156/2013/TT-BTC ("Circular 156"), the Ministry of Finance has introduced a new form for declaring the information about related party transactions, i.e. **Form 03-7/TNDN**. We would like to remind you that the new form is applicable for the tax period/fiscal year **from 1 January 2014** onward.

Some noticeable points related to Form 03-7/TNDN are highlighted as below.

Section B: Information to determine Arm's length principal for related party transactions										
Unit: Vietnam Dong										
No.	Contents	Revenue/Income				Expenses				Increase in profit from re-pricing on arm's length principal
		Book value	Re-pricing on Arm's length principal	Difference	Pricing Method	Book value	Re-pricing on Arm's length principal	Difference	Pricing Method	
(1)	(2)	(3)	(4)	(5)=(4)-(3)	(6)	(7)	(8)	(9)=(7)-(8)	(10)	(11) =(5)+(9)
I	Total transaction value arising from business activities									

(1) Reassessment of the revenue and expense based on the market price

- The new Form requires enterprises to self-assess the arm's length nature of the related party transactions in relation to both revenue and expenses recorded during the year and declare the difference between accounting record and reassessed price on the basis of market price. It seems that the reassessment is required only when it will **result in an increase of enterprise's profit and tax liability** while no any guidance with regards to decrease profit result from the re-assessment.

- Enterprise will declare the additional profit as resulted from re-assessment on both revenue and expenses. This value will be linked to **Item 1.5 (code B6) in the Form 03/TNDN** for annual tax finalization as an **upward adjustment for calculation of the enterprise's taxable income** as illustrated below:

No.	Items	Code	Amount
(1)	(2)	(3)	(4)
B	Determine taxable income based on Law on Corporate Income Tax	B	
1	Upward adjustment on the total accounting profit before corporate income tax (B1= B2+B3+B4+B5+B6)	B1	
...
1.5	Upward adjustment on the total accounting profit due to re-assessment on related parties transactions using arm's length principal	B6	

(2) Our recommendation

- Enterprises are recommended to carefully study the guidance on preparation of the new TP Form to avoid incorrect declaration of the transactions with related parties. Otherwise, it may trigger questions from the tax authorities in relation to the transfer pricing perspective.

2. Transfer Pricing Documentation Report

(1) Regulations

- According to Circular 66/2010/TT-BTC, **Article 7, Point 2.1**, enterprises are required to prepare the information, documents and evidence related to their production and business activities, and TP method applied to the related party transactions **upon the occurrence of the transactions**. In addition, under **Point 5.a, Article 10** of Circular 156/2013/TT-BTC, the deadline for supplementing tax dossier is **before the tax authority issues the decision to conduct tax inspection or tax audit at the tax payer's office**.

(2) Our recommendation

- Enterprises are recommended to ensure the declaration of TP Method in the TP Form to be consistent with those in TP report to prove the arm's length nature of the related party transactions.
- It is also strongly recommended that the enterprises proactively prepare the TP Report on an **annual basis** so that the report could be submitted to the tax authorities upon their request.

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