



Global Tax Update

Vietnam

Deloitte Tohmatsu Tax Co.

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Launching and Operation of Transfer Pricing Inspection Teams at General Department of Taxation and Provincial Department of Taxation levels

Further to Deloitte recent Tax Alert regarding the new trend in transfer pricing (“TP”) audit and inspection in [“Trend in Transfer Pricing Audit/ Inspection in 2015 – Advancing development”](#) of Global Tax Update June 2015, Ministry of Finance (“MoF”) and General Department of Taxation (“GDT”) **have been more focused on taking action to enlarge their resources** for TP inspection teams. Accordingly, GDT has recently issued Decisions 1574/QD-TCT and 1575/QD-TCT both dated 1 September 2015 announcing the establishment of TP inspection teams under the control of the GDT and some major Provincial Departments of Taxation (“PDT”) including Hanoi, Ho Chi Minh City, Binh Duong and Dong Nai respectively.

These TP inspection teams will officially start their operation from **1 October 2015**.

(1) Overview of TP inspection teams’ functions and tasks

1) Common tasks performed by both levels of the TP inspection teams

According to the Decisions, two levels of TP inspection teams may share or cooperate in certain tasks such as (a) developing the annual plans for TP audit; (b) conducting TP audit; (c)

summarizing and assessing the result of the TP audit during the year, etc.

In addition, the TP inspection teams will also be involved in handling Advance Pricing Agreements (APAs) for cases submitted to the tax authorities.

Other common tasks of both two levels of TP inspection teams are to manage and supervise the implementation of inspection decision, enhance technical knowledge and skills related to TP inspection, etc.

2) Tasks specialized at each levels

In addition, since the GDT’s TP inspection team will concentrate on the role of GDT’s advisor on TP inspection in general, the teams will be responsible for specified tasks including:

- Establishing inspection process and preparing training materials;
- Studying, preparing, modifying and supplementing the draft legal documentation regarding the determination of market prices in certain related transactions;
- Proposing amendments and supplementation to the policies which are no longer appropriate;

- Researching and analyzing the practical signals of TP issues;
- Developing criteria for TP risk assessment used in TP audit/inspection process;
- Analyzing and evaluating the level of compliance of enterprises with related party transaction to identify high risk areas for annual TP inspection planning;
- Coordinating with relevant authorities in conducting TP audit;
- Providing full information to relevant bodies as requested and directed by authorized agencies.

as other supporting documents should be prepared on a contemporaneous basis and with annual update.

- Perform self-assessment on TP risk profile and proactively prepare/make necessary improvements of the existing argument and documentation to strengthen the compliance status.
- Sufficient due diligence and review should be invested in preparation of information requested by the tax authority for the purpose of TP inspection.

On the other hand, PDT's TP inspection teams will act as an enforcement body to implement TP inspection in each city/province with other tasks, such as:

- **Conducting TP inspection** in accordance with the Tax Department's plans or as requested by other tax teams, higher-level tax authorities and Governmental authorities;
- **Inspecting, verifying and resolving the allegations of TP violation;**
- Providing information and inspection conclusion to the relevant authorities for tax administration purposes.

(2) What taxpayers can do better?

In line with our previous recommendation, we would like to re-emphasize the following points for the enterprises to improve their compliance status and cooperation with tax authority during TP inspection:

- Invest time and effort in preparation and submission of TP forms within statutory deadline, i.e. together with the annual CIT return. The form will be considered as the first assessment on the compliance level of enterprises with the prevailing TP regulations.
- Annual TP documentation report as well

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