



Deloitte Vietnam Tax Notice

Dear Valued Clients,

Recently, the HCMC Tax Department issued a Notification No. 3304/TB-CT addressed to all enterprises in HCMC regarding the submission of the Annual Transfer Pricing ("TP") Declaration Form for years 2006 to 2010.

The Notification which is issued on 15/09/2010 imposes a strict requirement on enterprises to submit the TP form GCN-01 (regulated in the Circular 117/2005/TT-BTC dated 19/12/2005 the Circular 66/2010/TT-BTC dated 22/04/2010). These forms are to be submitted in 3 copies, of which 2 copies are filed at HCMC Tax Department while the enterprise retains 1 copy. The deadline for the submission is 20/10/2010. According to the Notification, failure to submit these forms and being found in violation of the TP regulations in Vietnam during a tax audit, may be regarded tax evasion up to 300% of under-declared tax liability and subject to significant further penalties.

The notice is one of the several recent actions of the local tax authorities in Vietnam in **significantly increasing their attention on TP activities in Vietnam**. These include well known multinationals being subject to significant transfer pricing adjustments on audit. The many articles in the local press as well as commentators in the international media recently that a large number of foreign invested enterprises in Vietnam have engaged in transfer pricing activities, in particular loss making companies, has also meant that a strong response from the tax authorities was not unexpected.

It is clearly reflected in the Notification that the TP is not a low-priority issue and is **being targeted by the tax authority**. That the TP forms of previous years are suddenly required to be submitted with such a tight deadline implies that the forthcoming TP audits and the period under audit will be extensive (from 2006 until present).

The current action is being taken at a sensitive time when the new TP Circular has just come into effect. Several training seminars have been conducted by both the General Department of Taxation and provincial tax departments to both tax officials and enterprises in Vietnam regarding TP compliance and TP audits in Vietnam. According to the current TP regulations in Vietnam, all enterprises (both local and foreign invested enterprises) which engage in transactions with related parties are required to submit an annual TP declaration form of the transactions and most importantly maintain contemporary documentation to support its pricing policy in the transactions. Enterprises are recommended to put themselves in a position to be able to actively clarify and prove that their related party transactions meet the arm's length standard.

It can be foreseen that the tax authorities' likely next steps will include **performing TP audits** whereby the transactions declared in TP declaration forms are challenged by tax offices. Careful preparation of TP declaration forms and clarifications of declared information are therefore very important.

Please direct your queries, should there be any, to your regular contact(s) at Deloitte Vietnam Tax or to: deloittevn@deloitte.com.

With warm regards,

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