

WEBINAR:

How to be well-prepared for Tax and Transfer Pricing Audit?

17 March 2021



Content

01

Transfer pricing regulation update

- Vietnamese Transfer pricing regime
- Decree 132/2020/ND-CP
- Filing requirements
- Non-compliant consequences

02

Tax finalization

- Practical concerns
- How to be well-prepared for a tax finalization

03

Experience sharing and case study of tax and transfer pricing audit

04

Questions & Answers

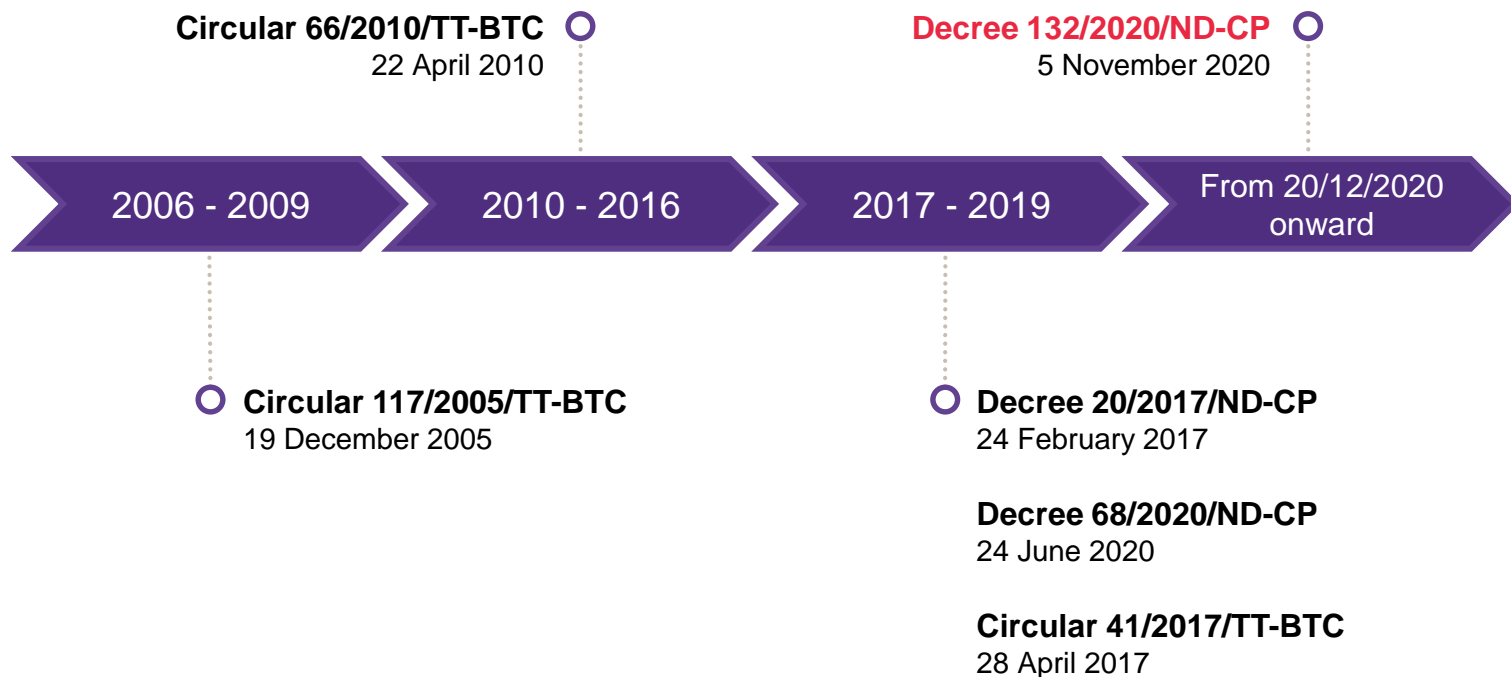
An overhead view of four business professionals sitting around a circular table in a modern office setting. The floor is made of large, dark grey tiles. The professionals are dressed in business attire. One person is using a laptop, another is looking at a tablet, and others are looking towards the center of the table. The scene is brightly lit, creating soft shadows.

Transfer pricing regulation update

Do Vu Bao Khanh

Transfer Pricing Services Manager, Grant Thornton Vietnam

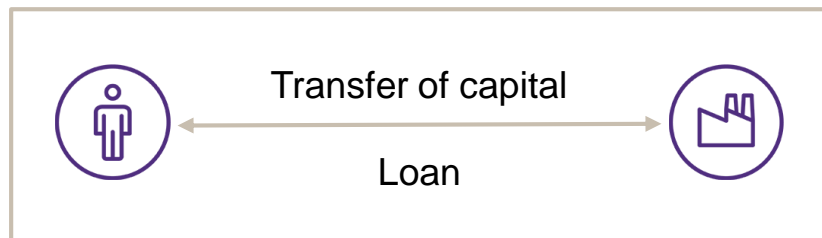
Vietnamese Transfer pricing regime



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 and loan with executive individual.



Highlights in Decree 132/2020/ND-CP

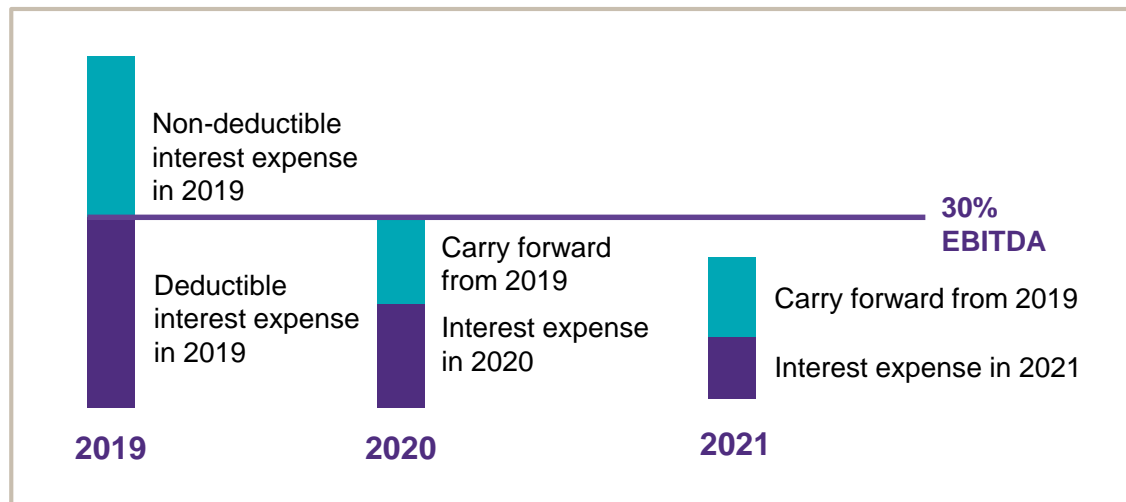
2. Increase of maximum deductibility of interest expenses

30%

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

5 years

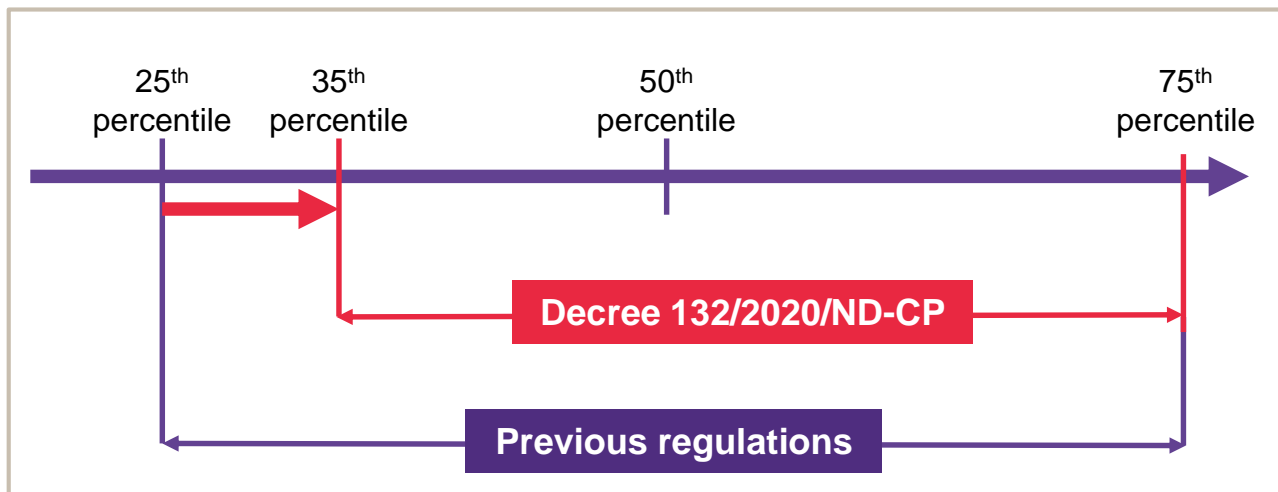
Nondeductible interest expense is allowed to be carried forward to max of 5-year period



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)



Filing requirements

	Compliant requirement	Deadline
TP Disclosure Forms	<ul style="list-style-type: none">• Form 01: Information on related party and related party transaction(s) – New format has been provided under Decree 132/2020;• Form 02: Checklist of information from Local File;• Form 03: Checklist of information from Master File;• Duplicate copy of Country-by-Country Report, or Form 04: Declaration of information in the Country-by-country report (only in case the filing entity is the Vietnamese ultimate parent)	<ul style="list-style-type: none">▪ To be prepared and submitted together with the Corporate Income Tax finalization return▪ Due date is 90 days after the end of tax year
TP Documentation reports	<ul style="list-style-type: none">• Annual Local File• Annual Master File <p><u>Additional requirements:</u></p> <ul style="list-style-type: none">▪ To be available in Vietnamese▪ To be prepared BEFORE Corporate Income Tax finalization	<ul style="list-style-type: none">▪ During tax audit: In line with Tax Audit regulations▪ In other cases: within 30 working days, extendable to one period of 15 working days upon receiving submission request

Non-compliant consequences



Trigger aggressive challenges of tax authority during tax audit/inspection

Adjustments of controlled price toward favorable market price

Adjustments of profit margin using tax authority's secret database

Bad tax precedent for both Vietnamese entity and the Group as a whole

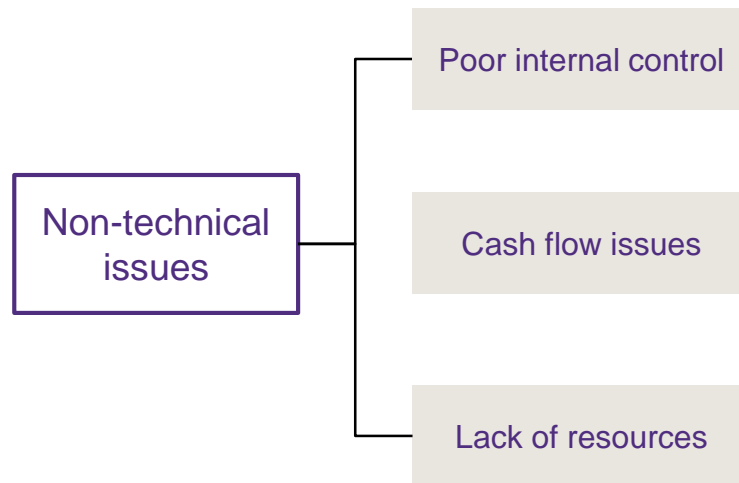
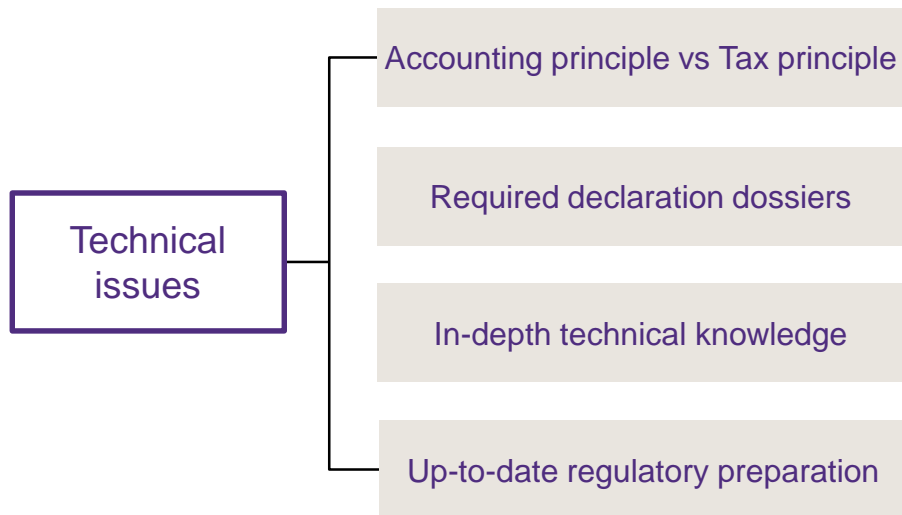
A photograph of three business professionals in suits walking on a city street. In the background, there is a modern building with many windows. A yellow taxi is visible on the street to the right. The scene is brightly lit, suggesting daytime.

Tax finalization

Nguyen Tan Tai
Tax Manager, Grant Thornton Vietnam

Practical concerns

Technical vs non-technical issues in tax finalization



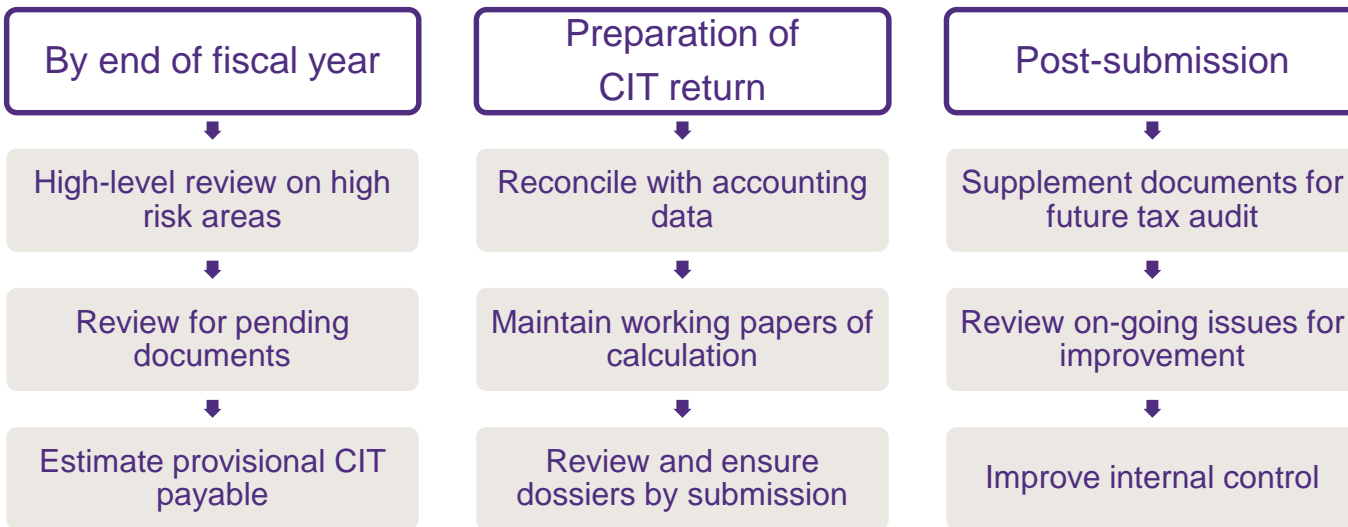
Practical concerns

Impacts of tax finalization in future tax audit



Practical concerns

How to be well-prepared for Corporate Income Tax finalization



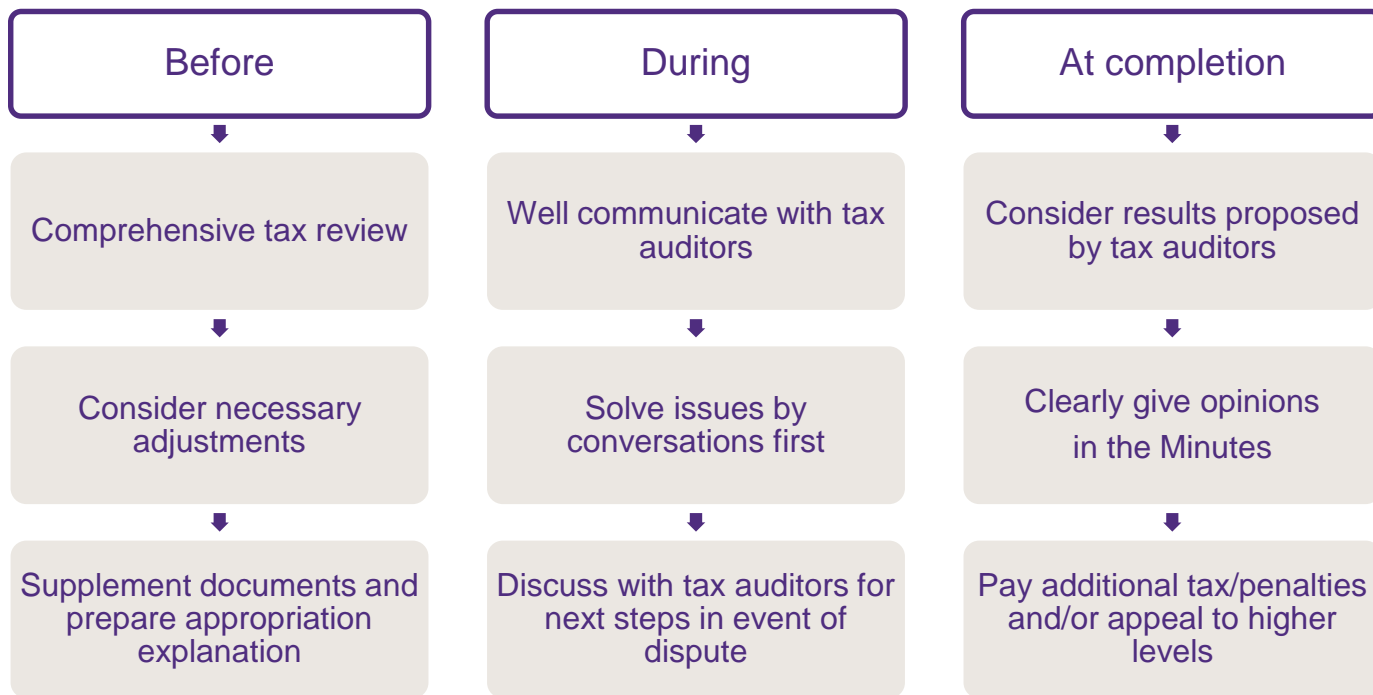


Experience sharing and Case study

of Tax and Transfer pricing audit

How to be well-prepared for a tax audit

Tax audit process



How to be well-prepared for a tax audit

Common areas to be challenged by tax auditors - CIT

CIT incentive

- location, industry
- tax exemption, reduction
- preferential tax rate
- new investment project
- expansion investment project
- methods of taxable income allocation subject to incentive
- separation of incentive and non-incentive income

Loss carried forward

- prescribed time limit and continuous
- offsetting loss with incentive and non-incentive income

Revenue reconciliation

- between audited FS and VAT returns

Sales deduction

- policies, supporting documents

How to be well-prepared for a tax audit

Common areas to be challenged by tax auditors - CIT

Cost of goods sold

- raw material consumption
- price adjustments
- stock-take, damaged, expired goods

Intercompany expenses

- loan interest expenses
- management services
- technical support, royalty, license
- income and benefits of inter-group assignees

Timing of revenue recognition

- goods, services, export

Employment cost

- salary, bonuses
- expatriate employee
- staff welfare

How to be well-prepared for a tax audit

Common areas to be challenged by tax auditors - VAT



Output VAT

- no legitimate invoice
- supporting documents
- payment settlement via banks
- contract terms



Input VAT

- no bank payment voucher
- allocation of deductible/ non-deductible VAT
- illegitimate invoice
- invoices from absconded suppliers
- non-business related expenses
- VAT of investment projects declared not in line with regulations

How to be well-prepared for a tax audit

Common areas to be challenged by tax auditors - **FCT**

Goods delivery terms

- incoterms
- on-spot import/export
- bonded warehouse

Goods/ service supply

- foreign suppliers own the goods
- responsible for advertising, promotion, distribution, etc.

Tax rates and tax terms

- tax rates
- net and gross contractual price

How to be well-prepared for a tax audit

Common areas to be challenged by tax auditors - **FCT**

Labor cost reimbursement

- reimbursement in event of inter-group assignment

Goods with services

- installation
- training
- maintenance
- warranty

Other payments

- salary and benefits for foreign contractor's employees

How to be well-prepared for a tax audit

Common areas to be challenged by tax auditors - PIT

Tax residency status

- tax resident
- tax non-resident
- sources of income

Benefits in cash and kind

- in cash: bonuses, incentive, etc.
- in kind: relocation, tuition fee, housing benefit, etc.

Declaration and withholding

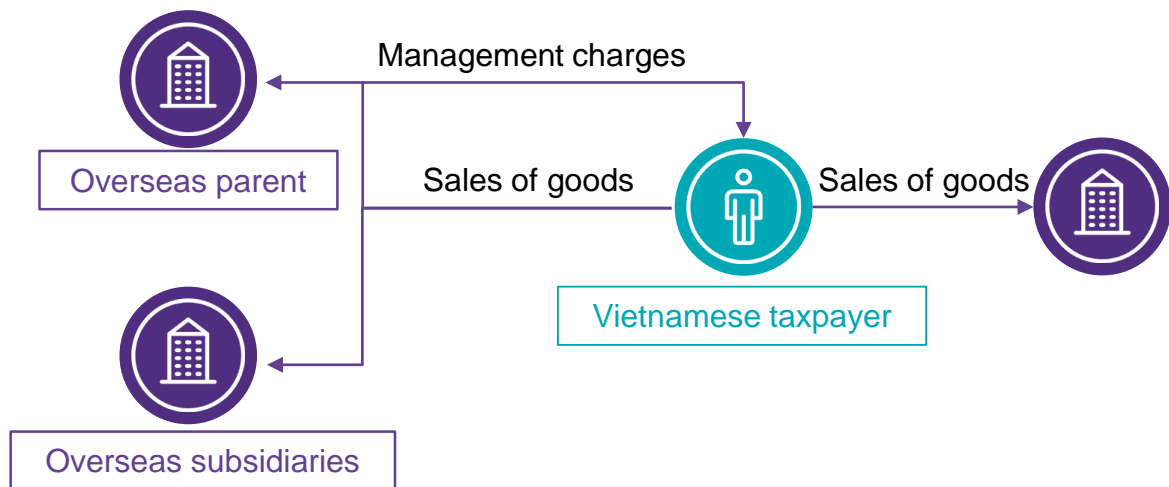
- monthly withholding
- finalization with authorization
- certificate of withhold tax, Income confirmation letter

Tax relief

- personal relief
- dependent relief
- declaration timing
- documentation

Background of taxpayer

- Manufacture of packaging materials
- Consecutive losses for more than 3 years
- Corporate tax incentive is applied



Tax audit at a glance

Pre-audit

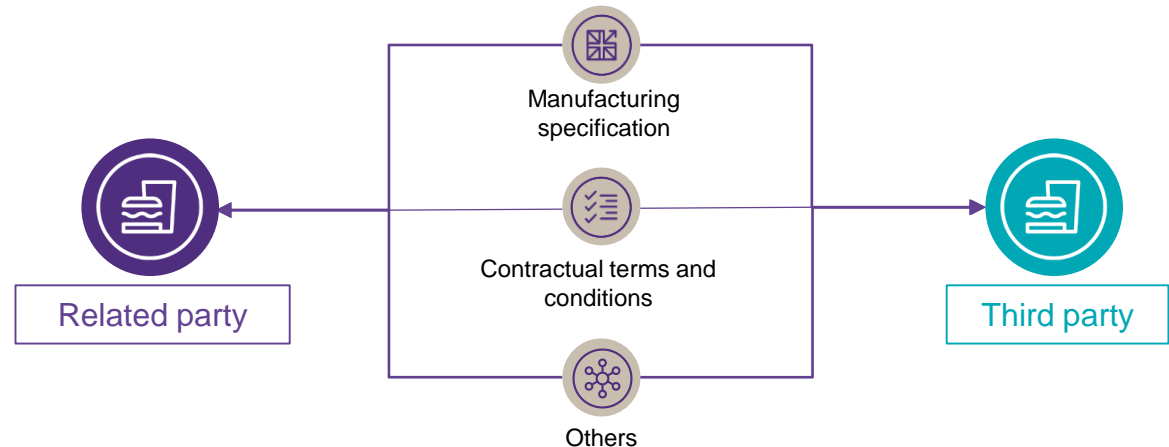
- TP is included in audit
- request for compliant documents
- request for contract of TP service
- request for supporting accounting data (usually Form M1 to M9)

During audit

- challenges on sales transactions (sales to related parties vs. sales to third parties)
- challenges on management charges

Challenges on sales transactions

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



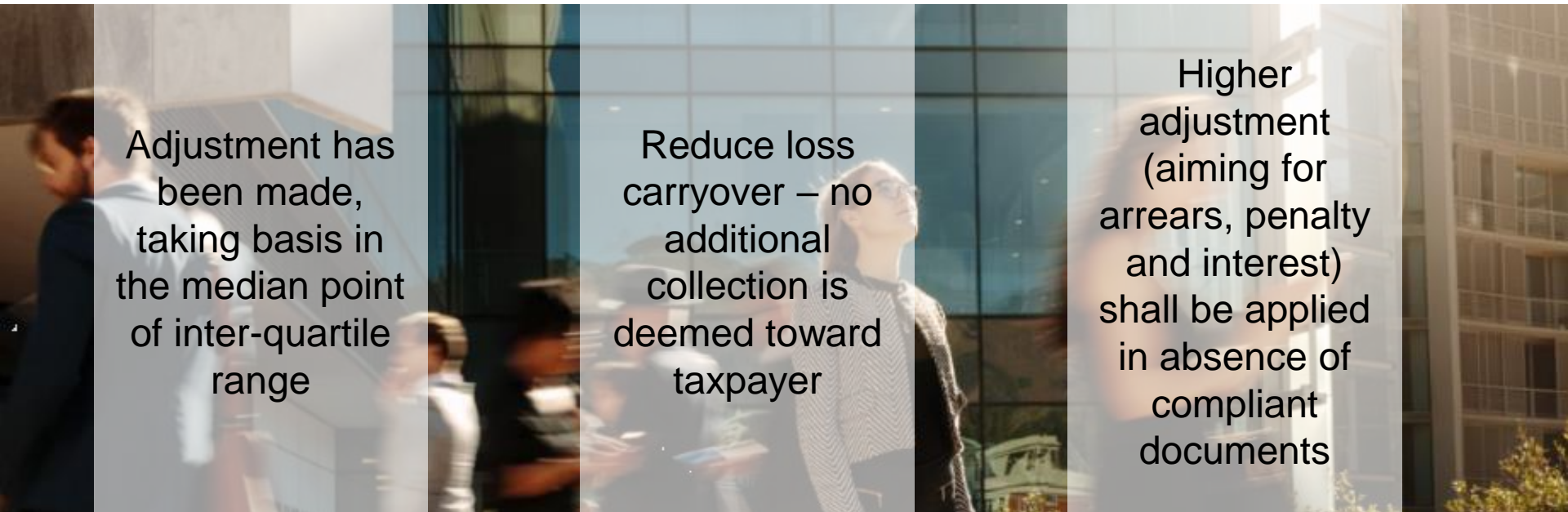
Challenges on management fee

Management fee (or any intra-Group transaction of services and intangibles) could be subject to aggressive challenges from tax authority.

Challenges ►

- fixed fee
- allocation basis
- supporting documents
- benefit test

Conclusion



Adjustment has been made, taking basis in the median point of inter-quartile range

Reduce loss carryover – no additional collection is deemed toward taxpayer

Higher adjustment (aiming for arrears, penalty and interest) shall be applied in absence of compliant documents

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

A diverse group of students is seated at desks in a bright classroom. Several students in the background have their hands raised, indicating an interactive learning environment. The text 'Questions & Answers' is overlaid in the center of the image.

Questions & Answers

4.

Thank you

Visit our Tax Hub for more newsletters and events

SCAN ME

