

Webinar: How to be well-prepared for Tax and Transfer Pricing Audit based on common practices?

No.	Questions	Answers
1	<p>1. If a company only has interest from an independent bank, is this subject to apply the threshold of 30% EBITDA?</p> <p>2. Is the interest capitalized in Fixed assets cost subject to apply the threshold of 30% EBITDA?</p>	<p>1. The 30% net EBITDA cap would be generally applied to taxpayer who engages in related party transactions. Therefore as long as taxpayer engages in such transactions, cap 30% net EBITDA would apply regardless of the origin loaner</p> <p>2. As long as interest is recorded under interest expenses during tax year, the cap will apply</p>
2	Will tax authority provide us data for "Arm-length price range" for reference?	In case of absence of compliant documents or wrongful information in preparation, secret database shall apply. Otherwise when taxpayer has prepared proper compliant documents, the analysis that is documented in taxpayer's compliant document will be used to explained to the tax authority during audit
3	How to prove the royalty rate is reasonable to persuade the tax auditors? (For example: Our parents company charges the royalty fee that is 5% of Gross profit). Which documents do we need to prepare?	Royalty rate is required to be examined under a separate analysis as such analysis will be documented accordingly in the annual compliant documents. In general, taxpayer is required to look for similar independent royalty contract and establish the appropriate range of mark-up for testing purpose.
4	To determine TPD preparation's exemption, should we account for the loan par value into the cap of 30bil related party transaction value?	In order to determine the VND 30bil exemption value of related party transaction, loan par value could be excluded.
5	Hi expert, about tax audit, how long is the longest time we can postpone the inspection after 1st notice for Tax team?	Per regulations, after a tax audit starts, extension of the tax audit can only be made once, the extended period shall not exceed the length of a normal tax audit. However, normally the company will be notified by the tax authority before they issue an official decision of tax audit. This is a good time the company should make explanation and send official letter to delay with proper reasons, as the tax audit is not officially started.
6	How can we clarify that the rate of price The Tax Officer provides is correct?	In case of absence of compliant documents or wrongful information in preparation, secret database shall apply. Otherwise when taxpayer has prepared proper compliant documents, the analysis that is documented in taxpayer's compliant document will be used to explain to the tax authority during audit. Therefore, it is recommended that taxpayer shall proactively prepare compliant document in order to mitigate the risk above.

7	About CbCR, If UPE has more than 1 Tax payer in VN, do UPE is obligate to nominate 1 Tax payer in VN to submit the CbCR following current regulations?	Copy of CbCR is required to distribute to all Vietnamese subsidiaries. Such copy shall be maintained at each subsidiary's premise and submitted to tax authority upon request to respective taxpayer.
8	Vui lòng tư vấn về giao dịch chuyển nhượng vốn/ chuyển nhượng tài sản với công ty liên kết	<p>Giao dịch chuyển nhượng vốn đầu tư được xem là đang nằm ngoài phạm vi của pháp luật xác định giá GDLK tại Việt Nam. Chúng tôi đang chờ các hướng dẫn pháp lý chi tiết về vấn đề này và sẽ cập nhật chi tiết sau.</p> <p>Đối với giao dịch chuyển nhượng tài sản, phương pháp áp dụng bắt buộc là phương pháp so sánh giá giao dịch độc lập (CUP), theo đó người nộp thuế tại Việt Nam cần chuẩn bị các bằng chứng nhằm chứng minh giá trị chuyển nhượng của tài sản tại thời điểm chuyển giao, bao gồm hóa đơn, chứng từ, giấy tờ liên quan cũng như chi tiết khấu hao và/hoặc thẩm định giá trị tài sản từ bên thứ ba đối với tài sản đã qua sử dụng.</p> <p>Trong trường hợp giao dịch tài sản kèm lợi nhuận (mark-up), người nộp thuế còn phải chuẩn bị thêm các phân tích chứng minh tính hợp lý của mức lợi nhuận tính trên giá chuyển nhượng.</p>
9	What are the licenses & taxes requirements to setup a factory to produce firearm basic components (100% export to Austria)?	<p>In general, licensing and tax requirement shall vary depending on the invested industry, especially for the industry falls into conditional investment.</p> <p>The procedure of setting up a company in Vietnam basically include:</p> <ul style="list-style-type: none"> - Investment certificate registration; - Business registration certificate - Tax registration and payment of the business license tax - Capital contribution - Apply for sublicenses or permits, if applicable. <p>For who raise this question, it would be better to directly contact me at tantai.nguyen@vn.gt.com to discuss in details of the investment industry and produced products so we can consult with the requirements.</p>
10	How to prove the royalty rate (for example 5% on GP) reasonably?	Royalty rate is required to be examined under a separate analysis as such analysis will be documented accordingly in the annual compliant documents. In general, taxpayer is required to look for similar independent royalty contract and establish the appropriate range of mark-up for testing purpose.
11	How does a taxpayer in Vietnam comply with the DTA between Vietnam and	<p>A taxpayer needs to:</p> <ul style="list-style-type: none"> - Carefully review its tax position if it qualifies for conditions of application of DTA under

	Cambodia to take advantage of lower tax rates?	the laws (i.e. permanent establishment, forms of income, etc.) by carefully review all business contracts, agreements, substance of income, ultimate beneficiary, etc. <ul style="list-style-type: none">- Sufficient documents and timeline of submission of DTA application should be well concerned.- Be well-prepared for any potential challenges by the tax authority at tax audit.
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