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Tax inspection in Vietnam

What Enterprises need to know

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Tax inspection in Vietnam

What Enterprises need to know

In recent times, the Tax Authorities have been strengthening the implementation of tax inspection activities. The inspections were performed on a large scale and focused more on enterprises posing high tax risks; those which have not been subject to tax inspection for many years; have incurred consecutive losses; expanded their investment or changed in ownership; or those engaged in significant transactions with related parties.

Depending on the situation of each enterprise, the Tax Authority shall decide whether the inspection would cover all kinds of tax, or only focus on some tax areas, or even only on a particular topic of Personal Income Tax or Transfer Pricing.

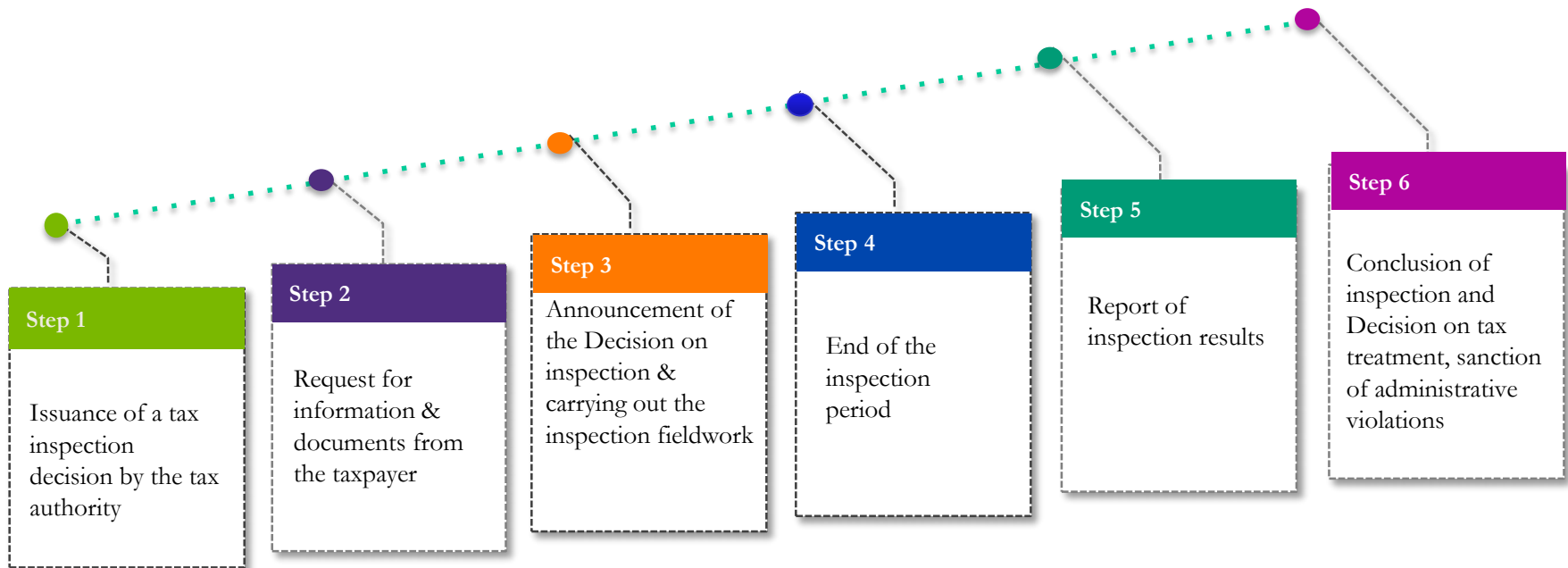
According to our observation, with careful preparation and experiences gained from previous tax inspections, some Enterprises have obtained the outcomes within expectation. However, some others have not been well prepared prior to the tax inspection, the explanation period was prolonged, and then additional taxes and even penalties imposed were required to be paid in quite significant amounts. This would bring in an adverse impact to the business operations, undermining the enterprise's branding due to non-compliance with tax regulations.

Via this newsletter, Grant Thornton (Vietnam) would like to provide Enterprises with some basic understanding of tax inspection procedures and certain risk prevention and mitigation skills, which can be practically applied in performing tax obligations to the State.



Procedures for tax inspection at site

Pursuant to current regulations, procedures for a tax inspection are normally performed in accordance with the following 6 basic steps:



Procedures for tax inspection at site

Step 1: Issuance of a tax inspection decision by the tax authority

The tax inspection decision shall be sent to the Enterprise within **03 (three) working days** from the issuance date of the inspection decision.

Step 2: Request for information and documents from the taxpayer

The inspection team is entitled to request the Enterprise to provide information and documents or explanation on issues relating to the scope of inspection before conducting the fieldwork at the Enterprise's premises.

The Enterprise might request for a delay of the inspection (provided that legitimate reasons are provided).

The Enterprise shall have to submit a written request to the Tax Authority specifying the reasons and propose a delay period for the tax authority's consideration. Within **05 (five) working days** upon the receipt of such delay request, the tax authority shall notify the Enterprise of their decision.

Administrative penalties would be imposed if the Enterprise refuses to comply with the decision on tax inspection within **03 (three) working days** from the implementation date of the decision, or refuses, delays, avoids the provision of documents, invoices, vouchers, accounting books relevant to the taxes being audited within **06 (six) working hours** upon receiving request

from the competent authorities during the inspection at the Enterprise's premises.

Major documents that the Enterprise needs to provide to the inspection team include:

- Business registration dossier/Investment Certificate.
- Tax registration.
- Invoice usage registration status.
- Dossiers, invoice reports, accounting books, accounting vouchers, audited financial statements.
- Tax declarations.
- Documents relating to the determination of tax obligations of the Enterprise.

If the Enterprise uses an accounting software, the soft copies of the above relevant documents shall also be provided.

The taxpayer reserves the right to refuse the provision of information, documents not relevant to the taxes being inspected.

Procedures for tax inspection at site

Step 3: Announcement of the Decision on inspection and carrying out the inspection fieldwork

Within **15 (fifteen) days** from the issuance of the decision on inspection, the Leader of the inspection team is responsible for announcing the inspection decision to the inspected Enterprise.

The Enterprise should take note of the following points during the tax inspection fieldwork by the Tax Authorities:

Duration of the inspection:

Decision makers	Tax inspection duration (*)	
	Normal case	Complicated case
General Department of Taxation	45 working days	70 working days
Provincial and district-level tax departments	30 working days	45 working days

(*) The duration of the inspection shall be counted from the announcement date of the decision on inspection, up to the completion of the inspection fieldwork. Where additional time is required for the examination and collection of evidence, the Leader of the inspection team shall have to report to the head of the inspection division of the decision-making body within **05 (five) working days** before the expiry date of the inspection period.

The above extension of the inspection period shall only be granted once for each inspection, in the form of a Decision. The total inspection duration, after being extended, shall not exceed the maximum duration applicable to a complicated inspection.

Explanation during the tax inspection:

During the tax inspection, the Tax Authority may:

- Perform a physical count of the Enterprise's assets falling within the scope of tax inspection.
- Request for explanation from the Enterprise's in-charge persons. The explanation might be made verbally or in writing.
- Make audio recording of the explanation from the Enterprise's in-charge persons/legal representatives on documentation evidencing the tax obligations of the Enterprise.
- Prepare minutes on the collection of the Enterprise's documents for examination, if necessary.

Procedures for tax inspection at site

Step 4: End of the inspection period

The inspection minutes shall be prepared in accordance with the prescribed template, and signed within **05 (five) working days** from the end of the inspection period.

The Enterprise is entitled to receive the Inspection Minutes, request for explanation from the Inspection Team on the Tax inspection minutes and reserve their opinions in the Tax inspection minutes.

At the end of the inspection period, if the Enterprise refuses to sign the Tax inspection minutes, within **05 (five) working days** from the announcement of the inspection minutes, the Leader of the inspection team **shall prepare the minutes on administrative violations**, report to the head of the inspection division for proposing to the issuer of the Decision on inspection to issue a Decision on sanction of administrative violations, at the same time, notify and request the taxpayer to sign the inspection minutes.

If the Enterprise still refuses to sign the inspection minutes, within **30 (thirty) working days** from the announcement of the inspection minutes, the head of the tax authority issuing the Decision on tax inspection shall issue the Decision on tax recollection, imposition of penalties on tax administrative violations and conclusion of the tax inspection according to the inspection minutes.

Step 5: Report of inspection results

Not later than **15 (fifteen) working days** from the end of the inspection, the Inspection team leader shall report on the inspection results to the head of the inspection division for presenting to the issuer of the decision on tax inspection.

Step 6: Conclusion of inspection and Decision on tax treatment, sanction of administrative violations

Not later than **15 (fifteen) working days** from the receipt of the Inspection result report, the issuer of the decision on tax inspection shall issue a written conclusion on inspection, except for the case where the inspection results are pending for specialized conclusions from competent agencies.



The Enterprise's rights for complaints

The Enterprise is entitled to file complaints against the administrative decisions of the Tax Authorities such as:

- 1) Decisions on tax imposition
- 2) Notifications on tax payment
- 3) Decisions on tax administrative penalties for violations of tax regulations
- 4) Decisions on coercive enforcement of tax administrative decisions
- 5) Conclusions on tax inspection
- 6) Decisions on complaint settlement.

The Enterprise is entitled to file complaints against administrative acts of the Tax Authorities, tax officials and of persons in charge of the tax administration when there is evidence to refer such acts as illegal, infringing their lawful rights and interests.

For Enterprises' complaints, references might be made to the Law on Complaints No. 02/2011/QH13 dated 11 November 2011.

Risks that the Enterprise may be exposed to upon tax inspection

- Public announcement of the tax administrative violations on electronic websites or newspapers.
- Administrative penalties for violations of tax procedures, for example, incorrect calculation, non-submission or late submission of tax declarations.
- Payment for additional tax obligations identified upon inspection.
- Penalties on tax late payment, ranging from 0.05% - 0.07% per day (equivalent to 23.75% - 25.55% p.a.)
- Additional penalties ranging from 10% - 20% of the missing tax amounts.
- Penalties ranging from 1 to 3 times of the missing tax amounts, for the act of tax evasion or tax fraud. Where the concerned tax amount is VND100 million or more, depending on each specific case, the legal representative and the relevant personnel (such as the Chief Financial Officer, Chief Accountant, Accountant in-charge) can be prosecuted for criminal liability pursuant to the Penal Code currently in force.

Methods to prevent and mitigate risks before tax inspection

- (1) Perform periodical reviews of the tax declaration dossiers and make supplementary declarations upon self-discovering the errors. Such supplementary declarations must be made before the Tax Authority issues the decision on tax inspection.
- (2) Perform annual update of the transfer pricing documentation in accordance with the regulations of the Ministry of Finance on the determination of the arm's length prices in related party transactions.
- (3) Regularly communicate with professional tax advisors of Grant Thornton (Vietnam) in cases where the Enterprise is in need of assistance in reviewing the tax returns, transfer pricing documentation or participating in the explanation to the Tax Authority.

Contacts

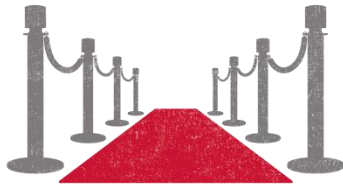
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If you have any question or require further information relating to this tax alert, please contact our professional tax advisors.

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Please visit our website

www.gt.com.vn



Hanoi Office

18th Floor, Hoa Binh International Office Building
106 Hoang Quoc Viet
Cau Giay District, Hanoi
Vietnam
T + 84 4 3850 1686
F + 84 4 3850 1688

Hoang Khoi

Tax Partner
D +84 4 3850 1618
E Khoi.Hoang@vn.gt.com

Nguyen Dinh Du

Tax Partner
D +84 4 3850 1620
E Du.Nguyen@vn.gt.com

Kaoru Okata

Director – Japanese Desk
D +84 4 3850 1680
E Kaoru.Okata@vn.gt.com

Pham Ngoc Long

Tax Director
D +84 4 3850 1684
E Long.Pham@vn.gt.com

Kieu Hoai Nam

Tax Senior Manager
D +84 4 3850 1681
E Nam.Kieu@vn.gt.com

Ho Chi Minh Office

28th Floor, Saigon Trade Center
37 Ton Duc Thang Street
District 1, Ho Chi Minh City
Vietnam
T + 84 8 3910 9100
F + 84 8 3914 3748

Nguyen Hung Du

Tax Partner
D +84 8 3910 9231
E HungDu.Nguyen@vn.gt.com

Valerie – Teo Liang Tuan

Tax Director
D +84 8 3910 9235
E Valerie.Teo@vn.gt.com

Tomohiro Norioka

Director – Japanese Desk
D +84 8 3910 9205
E Tomohiro.Norioka@vn.gt.com

Kozue Yasunaga

Senior Manager - Japanese Desk
D +84 8 3910 9260
E Kozue.Yasunaga@vn.gt.com

Tran Nguyen Mong Van

Tax Senior Manager
M +84 8 3910 9233
E MongVan.Tran@vn.gt.com

Nguyen Bao Thai

Tax Senior Manager
M +84 8 3910 9236
E Thai.Nguyen@vn.gt.com

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