

## Viet Nam

Viet Nam has met all aspects of the terms of reference (ToR) for the calendar year 2017 (year in review), except for having in place a process for completion of templates and exchange of information on rulings (ToR II.5). Viet Nam receives one recommendation on this point for the year in review.

In the prior year report, Viet Nam received the same recommendation. As it has not been addressed, the recommendation remains in place.

Viet Nam can legally issue one type of ruling within the scope of the transparency framework. In practice, Viet Nam issued no rulings within the scope of the transparency framework. It has currently received three requests for unilateral APAs which are under review or in a pre-filing stage.

As no exchanges took place, no peer input was received in respect of the exchanges of information on rulings received from Viet Nam.

## Introduction

This peer review covers Viet Nam's implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

## A. The information gathering process

Viet Nam can legally issue one type of ruling within the scope of the transparency framework: cross-border unilateral advance pricing agreements (APAs) and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles. The deputy Commissioner in charge of international taxation and affairs is responsible for issuing the APA, after approval by the Minister of Finance.

### ***Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)***

For Viet Nam, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 September 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

In the prior year peer review report, it was determined that Viet Nam's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Viet Nam's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Viet Nam specified that the team in the large taxpayers' department referred to in the prior year report, which is assigned the APA requests, is the APA team. As noted in the prior year report, this APA team was also the team responsible for identifying when an APA is relevant for the purposes of the transparency framework and for identifying potential exchange jurisdictions.

### ***Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)***

For Viet Nam, future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

In the prior year peer review report, it was determined that Viet Nam's system to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. Viet Nam's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard. It is noted that no APAs have been issued within the period defined as "future rulings".

### ***Review and supervision (ToR I.4.3)***

In the prior year peer review report, it was determined that Viet Nam's review and supervision mechanism was sufficient to meet the minimum standard. Viet Nam's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

### ***Conclusion on section A***

Viet Nam has met all of the ToR for the information gathering process and no recommendations are made.

## B. The exchange of information

### ***Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)***

Viet Nam has the necessary domestic legal basis to exchange information spontaneously. Viet Nam notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

Viet Nam has international agreements permitting spontaneous exchange of information, including being a party to double tax agreements in force with 75 jurisdictions.<sup>1</sup>

### ***Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)***

In the prior year peer review report, it was determined that Viet Nam's process for the completion and exchange of templates did not meet the ToR (ToR II.5). Therefore, Viet Nam was recommended to continue to put in place a process to complete the templates for all relevant rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework.

During the year in review, Viet Nam clarified that the APA team is also tasked with completing the templates in the form contained in Annex C of the Action 5 report (OECD, 2015). After completing the template, it would be sent to the Deputy Commissioner in charge of international taxation and affairs for approval, and afterwards to the Director of the international taxation department, designated as the Competent Authority for exchange of information, who would then exchange it with the relevant exchange jurisdictions. At this stage, timelines for the transmission of the template to the Competent Authority and for the completion of exchanges have not been established. Viet Nam is planning to issue internal guidance on this. Therefore the prior year recommendation remains.

As no rulings within the scope of the transparency framework have been issued in practice, Viet Nam was not required to complete any exchanges of information and there is no data to report on the timeliness of exchanges.

### ***Conclusion on section B***

Viet Nam has the necessary legal basis for spontaneous exchange of information. Viet Nam is currently putting in place a process for completion of templates and exchange of information on rulings (ToR II.5). Viet Nam is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework.

## C. Statistics (ToR IV)

As no rulings are issued, no statistics can be reported.

## D. Matters related to intellectual property regimes (ToR I.4.1.3)

During the year in review, the FHTP reviewed an intellectual property regime (IP regime)<sup>2</sup> offered by Viet Nam. At its June 2019 meeting, the FHTP concluded this regime as "out of scope" and therefore it is not subject to the transparency requirements under the Action 5 report (OECD, 2015<sup>[5]</sup>).

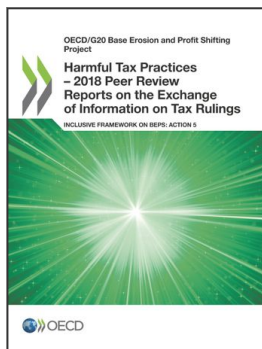
## Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Viet Nam is currently putting in place a process for completion of templates and exchange of information on rulings.	Viet Nam is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework. This recommendation remains unchanged since the prior year peer review report.

## Notes

<sup>1</sup> Viet Nam has double tax agreements with Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Brunei Darussalam, Bulgaria, Cambodia, Canada, China (People's Republic of), Cuba, Czech Republic, Democratic People's Republic of Korea, Denmark, Estonia, Finland, France, Germany, Hong Kong (China), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Kazakhstan, Korea, Kuwait, Lao People's Democratic Republic, Latvia, Luxembourg, Macau (China), Malaysia, Malta, Mongolia, Morocco, Mozambique, Myanmar, Netherlands, New Zealand, Norway, Oman, Pakistan, Palestinian Authority, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Serbia, Seychelles, Singapore, Slovak Republic, Spain, Sri Lanka, Sweden, Switzerland, Chinese Taipei, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Uruguay, Uzbekistan and Venezuela.

<sup>2</sup> This regime is the Transfer of technology.



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