

New transfer pricing regulations on APAs released



At a glance...

5 July 2021

On 18 June, the Ministry of Finance issued Circular 45/2021/TT-BTC, setting out new rules on Advance Pricing Agreements in Vietnam.

Circular 45 takes effect from 3 August, and replaces the existing APA Circular 201 issued in 2013.

Although said Circular 201 was issued 8 years ago, there has been little progress made on getting APAs in place since then, with only a handful being finalized and a few others making slow progress at present. APAs can be very useful, to taxpayers and tax authorities alike, in providing certainty, and this new circular seems to reflect the Government's keenness to get these working better in Vietnam and more in line with practice in other countries.

We outline some of the key points below.

Some key changes

Transactions which can be covered by APAs

To be eligible, transactions must satisfy all of the following conditions:

- The transactions occur during the APA period,
- There is a basis to perform a comparable analysis,
- Transactions are not subject to tax dispute/ under tax investigation,
- Transactions are carried out transparently, not for the purpose of tax avoidance/ tax treaty abuse.

APA application process

- Reducing the admin burden, the pre-filing phase is no longer compulsory.
- The application process continues to have mandatory phases comprising the official submission, assessment, discussion & negotiation and conclusion.
- There is no specified timeline provided for each phase of the application.

Covered period and effective date

- The APA period is reduced from a maximum of 5 years to just 3 years, however the period shall not exceed the number of years the taxpayers operate in Vietnam.

Transitional rule

- For APA applications submitted under Circular 201, where the proposed period in the application ends after 2 August 2021, these will be now progressed under these new APA regulations.

Contact us

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