PwC Vietnam NewsBrief

Vietnam added to the EU's "grey list"

www.pwc.com/vn

At a glance..

Vietnam on the EU's grey list

On 24th February 2022, the Council of the European Union ("EU Council") added another 10 countries, including Vietnam, to its grey list.

The grey list comprises countries which are deemed by the EU Council to be "co-operative" and have committed to reforming their tax rules so as to comply with certain criteria around transparency, fair taxation, and the implementation of anti-base erosion and profit shifting ("BEPS") measures. Countries on the list are monitored to ensure they make the necessary changes.

In this Newsbrief we will examine why Vietnam was added and what the consequences may be for taxpayers in Vietnam.

Background

What is the grey list?

The EU Council is one of the legislative bodies of the European Parliament. Within the EU Council the Economic and Financial Affairs Council (ECOFIN) deals with finance and tax matters.

ECOFIN published a Code of Conduct which contained two commitments for EU Member States to adhere to, which were:

- A commitment to eliminate harmful tax practices; and
- A commitment to refrain from implementing new harmful tax practices.

The original focus of the Code of Conduct was on EU Member States. However, Member Stares subsequently committed to promoting the adoption of good tax governance principles with third countries, third countries being those outside the EU and in territories in which EU treaties do not apply. The principles of good governance are transparency, fair taxation and implementation of anti-BEPS measures.

The Code of Conduct Group “CoCG”) was established to create and update the EU’s list of non-cooperative jurisdictions (referred to as Annex I or the “black list”) and to maintain a list of co-operative jurisdictions that are committed to good tax governance, but are required to make changes to their tax rules to comply with good governance principles. This is Annex II, or the “grey list.”

Consequences

Why is Vietnam on the grey list?

Vietnam was put on the grey list because it has not fully implemented anti-BEPS measures. Specifically, it has not fully implemented all of BEPS Action 13 on Country-by-Country Reporting ("CbCR") and activated CbCR exchange agreements with EU Member States.

What's next?

In order to be taken off the grey list, Vietnam must implement Action 13, including introducing CbCR exchange relationships with EU Member States. This must be done so that the change can be reflected in the OECD's Inclusive Framework Action 13 Peer Review report which will be published in the autumn of 2023.

If Vietnam does not do this, it may be moved to the black list, the consequences of which may include:

- Non-deductibility of costs which are charged to a country on the black list;
- The application of controlled foreign company ("CFC") rules;
- The imposition of higher withholding taxes on payments received in a country on the black list;
- Limitation of the participation exemption for dividends; and
- Additional reporting requirements.

Takeaway

There are no immediate implications of being on the grey list for taxpayers in Vietnam. However, taxpayers should continue to monitor developments in this area over the next 18 months.

Contact us

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. For further information or if you require our official advice or assistance, please reach out to us.

Richard Irwin

Partner

+84 903 037 751

r.j.irwin@pwc.com

Judith Henry

Director

+84 901 460 676

judith.henry@pwc.com

www.pwc.com/vn

At PwC Vietnam, our purpose is to build trust in society and solve important problems. We're a member of the PwC network of firms in 156 countries with over 295,000 people who are committed to delivering quality in legal, tax, assurance, and advisory services. Find out more and tell us what matters to you by visiting us at www.pwc.com/vn.