



Vietnam

WTS Global Country TP Guide

Last Update: December 2017

1. Legal Basis	
Is there a legal requirement to prepare TP documentation?	Yes
Since when does a TP documentation requirement exist in your country?	2006
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
Which TP methods may be applied?	Transfer pricing methods: - arm's length price comparison method; - profit-comparison method; - Method for allocation of profits between related parties
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	CbCR/MF/LF implemented
Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status	According to Decree No.20/2017/ND-CP which took effect from 1 May 2017: Local file: prepared by using the Form No.02 given in the Appendix to this Decree; Master file: containing information relevant for global corporations, prepared by using the Form No.03 given in the Appendix to this Decree; Country-by-Country report of an ultimate parent company: prepared by using the Form No.04 given in the Appendix to this Decree.
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general	In addition, there are further articles of law, legislative regulations, administrative circulars and case law applicable to transfer pricing in general. These include the following laws: - the Law on Government Organisation dated 19 June 2015; - the Law on Tax Administration dated 29 November 2006; the Law on Revision of certain articles of the Law on Tax Administration dated 20 November 2012; - the Law on Corporate Income Tax dated 3 June 2008; the Law on Revision of certain articles of the Law on Corporate Income Tax dated 19 June 2013; - the Law on Revision of certain articles of the Law on Tax dated 26 November 2014; - the Law on Investment dated 26 November 2014; - the Law on Enterprises dated 26 November 2014; - the Law on Accounting dated 20 November 2015;

2. Master File (MF)	Yes
<p>What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?</p>	<p>Threshold of revenue and value of related-party transactions (“RPTs”): The taxpayers annual revenue does not exceed VND 50 billion and the total value of the related-party transactions does not exceed VND 30 billion;</p> <ul style="list-style-type: none"> - Taxpayer having Advance Pricing Agreement (APA) has submitted annual APA report in accordance with the APA regulations. For those related-party transactions which are not covered by the APA, taxpayers are obliged to comply with the aforesaid transfer pricing documentation requirements. - Threshold of profit margin for taxpayers who perform routine functions and does not generate revenue or incur expense from exploitation and use of intangibles: the taxpayer’s annual revenue does not exceed VND 200 billion and the ratio of net operating profit before interest and CIT to net sales revenue (i.e. operating margin) exceeds: 5% for distributors; 10% for manufacturers; and 15% for toll manufacturers.
Euro Equivalent	EUR 1,783,730
As from which year does this obligation exist?	As from the year that the threshold is met.
When does the Master File need to be available?	Transfer pricing documentation package must be prepared before the time of filing corporate income tax finalisation returns each year, and must be stored and presented to meet the demand for information requested by tax authorities. When a tax authority carries out transfer pricing audit, the time limit for provision of the transfer pricing documentation package shall not exceed 15 working days from the date of receipt of request from provision of information.
When does it need to be submitted?	<p>No longer than 15 working days upon receipt of request from tax authorities, in a tax audit</p> <p>No longer than 30 working days upon written request by the tax authority, in the Consultation Procedure prior to the audit. Where reasonable reason is provided, the submission deadline is extended only once to no longer than additional 15 working days upon the expiry date.</p>
Does the MF have to be prepared in the relevant local language ?	Yes
Is documentation in English permissible?	Yes, if the tax audit approves. But normally, taxpayer has to translate it to local language.
What are the possible consequences of not having the MF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	Yes
To which extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?	In general, consistent with OECD requirements.

3. Local File (LF)	Yes
<p>What is the threshold requirement for the obligation to prepare a LF?</p>	<ul style="list-style-type: none"> - Threshold of revenue and value of related party transactions ("RPTs"): The taxpayer's annual revenue does not exceed VND50 billion and the total value of the related-party transactions does not exceed VND30billion; - Taxpayer having Advance Pricing Agreement (APA) has submitted annual APA report in accordance with the APA regulations. For those related party transactions which are not covered by the APA, taxpayers are obliged to comply with the aforesaid transfer pricing documentation requirements. - Threshold of profit margin for taxpayers who perform routine functions and does not generate revenue or incur expense from exploitation and use of intangibles: the taxpayer's annual revenue does not exceed VND200billion and the ratio of net operating profit before interest and CIT to net sales revenue (i.e. operating margin) exceeds: <ul style="list-style-type: none"> + 5% for distributors; + 10% for manufacturers; and + 15% for toll manufacturers.
Euro Equivalent	EUR 1,783,730
As from which year does this obligation exist?	As from the year that the threshold is met.
When does the LF need to be available?	Transfer pricing documentation package must be prepared before the time of filing corporate income tax finalisation returns each year, and must be stored and presented to meet the demand for information requested by tax authorities. When a tax authority carries out transfer pricing audit, the time limit for provision of the transfer pricing documentation package shall not exceed 15 working days from the date of receipt of request from provision of information.
When does the LF need to be submitted?	<p>No longer than 15 working days upon receipt of request from tax authorities, in a tax audit</p> <p>No longer than 30 working days upon written request by the tax authority, in the Consultation Procedure prior to the audit. Where reasonable reason is provided, the submission deadline is extended only once to no longer than additional 15 working days upon the expiry date.</p>
Does the LF have to be prepared in the relevant local language?	Yes
Or is documentation in English permissible?	Yes, only if the tax audit approves. But normally, taxpayer has to translate it to local language.
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	Yes
To which extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?	In general, consistent with OECD requirements.

4. Country-by-Country Reporting	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	The CbC reporting is applicable for a Vietnamese Group having consolidated global revenue of VND18,000 billion (approximately EUR 750 million) and above in the respective tax period.
As from which year does this CbCR obligation exist?	As from the year that the threshold is met.
When and how do the tax authorities need to be notified who the reporting entity is?	For a taxpayer having an overseas ultimate parent company, a taxpayer shall be responsible for submitting a copy of its ultimate parent company's Country-by-Country report where that ultimate parent company is required to submit this report to the host-country tax authority by using the declaration form given by that tax authority or the declaration form No. 04 given in the Appendix to Decree No. 20/2017/ND-CP. Where a taxpayer fails to provide a Country-by-Country report, that taxpayer is obligated to provide a written explanation letter in which reasons for such failure, legal bases, and references to specific legislative regulations of the counterparty country on prohibiting taxpayers from providing Country-by-Country reports, should be stated.
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	No longer than 15 working days upon receipt of request from tax authorities, in a tax audit. No longer than 30 working days upon written request by the tax authority, in the Consultation Procedure prior to the audit. Where reasonable reason is provided, the submission deadline is extended only once to no longer than additional 15 working days upon the expiry date.
Are there any deviating submission deadlines for the secondary mechanism?	No
Does your country have a requirement that the financial figures of the group need to be aligned with?	No
Does your country have a requirement that the financial years of the group need to be aligned with?	No
Where is the CbCR to be submitted ?	CbCR is to be submitted electronically to the Tax authorities Office.
How is the CbCR to be submitted, specifically, is there any prescribed standard?	Not required
What are the possible consequences of not having the CbCR available?	Tax authorities shall have authority to set the level of price, profit margin or profit allocation rate which is used for tax assessment or setting thresholds for taxable revenue or corporate income tax amount payable with respect to taxpayers engaged in the transfer pricing within a specified tax period, based on information, data and analysis of assessment of the tax authority.
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	Yes
To which extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?	In general, consistent with OECD requirements.

Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")?	No
Did your country enter into other information exchange agreements, such as on a bilateral basis?	No
Can a taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?	Yes

5. TP disclosure in tax return or transfer pricing specific returns

Does a taxpayer need to disclose information regarding TP documentation in his tax return?	No
When a taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect transfer pricing, what could be the legal consequences?	Tax authorities shall have authority to set the level of price, profit margin or profit allocation rate which is used for tax assessment or setting thresholds for taxable revenue or corporate income tax amount payable with respect to taxpayers engaged in the transfer pricing within a specified tax period, based on information, data and analysis of assessment of the tax authority.
What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?	Tax authorities shall have authority to set the level of price, profit margin or profit allocation rate which is used for tax assessment or setting thresholds for taxable revenue or corporate income tax amount payable with respect to taxpayers engaged in the transfer pricing within a specified tax period, based on information, data and analysis of assessment of the tax authority.
Does a taxpayer need to file TP-specific returns?	Yes
Please state the filing form number and name.	2006-2009: Form No. GCN-01/TNDN of Circular no.117/2005/TT-BTC 2010-2013: Form No. GCN-01/QLT of circular No.66/2010/TT-BTC 2014-2016: Form No. 03-7/TNDN of circular No. 156/2013/TT-BTC From 2017: Form No. 1,2,3,4 of Decree No.20/2017/ND-CP
What would be the filing deadline?	Within 90 days from the end of Fiscal Year.
What would be the penalties for non-compliance?	Any taxpayer that commits tax evasion or tax avoidance shall incur a fine that is a multiple of the tax arrears from 1 to 3 times the tax arrears.

6. Benchmarking

Is there any local guidance or requirement with regard to the preparation of a benchmark study?	No
Are there any materiality thresholds that apply for the requirement to have a benchmark study available?	No

7. Year-end adjustments

Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	Yes. Tax authorities will accept year-end adjustment if it is submitted before they issue a tax audit decision to taxpayers.

8. Transfer Pricing Audit and Dispute Resolution Mechanisms	
What are currently the main TP areas of scrutiny by the tax authorities in your country?	Businesses in finance and insurance, - Textile and apparel manufacturing enterprises; - Enterprises manufacturing automobile components; - Sewing processing
Based on your experience, are joint or multilateral audits initiated and carried out?	Yes
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	Yes
Are there any restrictions?	Only according to the content of the APA and regulations requiring implementation and reporting.

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