Viet Nam

Viet Nam has met all aspects of the terms of reference (OECD, 2017[3]) (ToR) for the calendar year 2019 (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, as well as in the 2017 peer review, Viet Nam had 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.

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

A. The information gathering process

1150. Viet Nam can legally issue the following type of rulings within the scope of the transparency framework: cross-border unilateral 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.

1151. 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. Future rulings are any tax rulings within scope that are issued on or after 1 September 2017. In last year's report, Viet Nam indicated it had received three requests for unilateral APAs which were at a preliminary stage. During the year in review, Viet Nam put the APA program on a hold due to the new assessment requirements set out in the revised Tax Administration Law for 2019. As a result, none of the APA requests previously received were approved, and no APAs were issued during the year in review.

1152. In the prior years' peer review reports, it was determined that Viet Nam's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that Viet Nam's review and supervision mechanism was sufficient to meet the minimum standard. Viet Nam's implementation remains unchanged, and therefore continues to meet the minimum standard.

1153. 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)

1154. 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.

1155. Viet Nam has international agreements permitting spontaneous exchange of information, including being a party to bilateral agreements in force with 76 jurisdictions.[1]

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

1156. In the prior years' peer review reports, it was determined that Viet Nam's process for the completion and exchange of templates met all the ToR, except for the completion and exchange of templates (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.

1157. During the year in review, Viet Nam continued to work on the development of a process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions. Viet Nam also indicated its intention to develop internal guidance covering the timelines for the transmission of the template to the Competent Authority and for the completion of exchanges, including appropriate training for the relevant tax officers. The process described above is yet to be completed, as new legal instruments accompanying the implementation of the Tax Administration Law for 2019, including new guidance for transfer pricing as well as for APAs, is yet to become effective. Therefore, the prior year recommendation remains.

1158. 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

1159. 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)

1160. As there was no information on rulings required to be exchanged by Viet Nam for the year in review, no statistics can be reported.

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

1161. Viet Nam does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015[1]) were imposed.

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 2017 and 2018 peer review reports.

References

OECD (2017), BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework, OECD Publishing, Paris, http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf. [3]

OECD (2015), Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264241190-en. [1]

OECD/Council of Europe (2011), The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol, OECD Publishing, Paris, https://dx.doi.org/10.1787/9789264115606-en. [4]

Notes

[1] Viet Nam has bilateral agreements with Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Brunei Darussalam, Bulgaria, Cambodia, Canada, China (People's Republic of), Croatia, 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.