KPMG

Tax Alert

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Vietnam issues new Circular on DTA, MAP and APA

The Ministry of Finance has issued a new Circular No. 95/2026/TT-BTC, guiding the implementation of double taxation agreements ("DTA"), mutual agreement procedures ("MAP") and advance pricing arrangements ("APA") in Vietnam. The Circular is effective from 1 July 2026 and replaces Circular No. 205/2013/TT-BTC on DTA and Circular No. 45/2021/TT-BTC on APA.

The Circular consolidates Vietnam's framework for treaty relief, cross-border tax dispute resolution and transfer pricing certainty. Businesses with cross-border payments, treaty claims or material related-party transactions should assess the impact and prepare early.

1. DTA: Key points

- **Treaty objective clarified**. The Circular adds that the objective of a DTA is not only to avoid double taxation and prevent tax evasion, but also to avoid creating opportunities for non-taxation in both Contracting Parties.
- **Clearer timing for treaty relief claims**. The Circular clarifies that the application date for DTA relief is from the date when a complete application dossier is submitted under the relevant tax administration regulations.
- **Permanent establishment ("PE") in case of digital and e-commerce platform**. An e-commerce platform or digital platform through which a foreign enterprise conducts all or part of its supply of goods or services in Vietnam will be regarded as a PE in Vietnam.
- **Definition of immovable property clarified**. The Circular updates the definition of immovable property to include land use rights, land lease rights and future-formed real estate.
- **Tax rate applied for dividends, interest, royalties and technical service fees**. The Circular clarifies that where the beneficial owner of these payments is a resident of the relevant Contracting Party, the tax rate applied in Vietnam should not exceed the rate provided under the applicable DTA.
- **Exchange of information and assistance in tax collection**. The Circular introduces a clearer framework for tax information exchange, including automatic exchange, confidentiality and permitted use of information, and for assistance in tax collection between Vietnam and treaty partners.

2. MAP: Clearer dispute resolution process

The Circular introduces a MAP framework covering filing, review, negotiation, conclusion and implementation. The Circular also provides clearer basis in case the MAP is refused. Taxpayers also can be more engaged in MAP by providing comments on the proposed outcome.

Taxpayers should act promptly, as MAP requests may be rejected if the filing does not meet the timeline set out in the applicable treaty. MAP also does not automatically suspend domestic tax obligations notified in the tax handling decisions of the Vietnamese tax authority or the Contracting Party unless temporarily decided by the competent state authority.

3. APA: More structured route to transfer pricing certainty

The Circular provides a clearer APA framework, including:

- **Commercial databases recognised for APA benchmarking purposes**. The analysis, comparison and selection of independent comparables, as well as the determination of transfer pricing methods for covered related party transactions ("**RPTs**"), are performed in accordance with Decree No. 255/2026/NĐ-CP on tax administration for RPTs of enterprises with RPTs ("**Decree 255**"). As Decree 255 expressly recognises commercial databases as a valid data source for transfer pricing analysis, such commercial databases are accepted as appropriate sources for APA benchmarking purposes.
- **Extended APA coverage period**: Taxpayers may request APA coverage for a period of up to five (05) years, starting from the year in which the APA application dossier is submitted or the immediately following tax year, provided this does not exceed the actual number of years during which the taxpayer has operated, conducted business, and declared and paid corporate income tax in Vietnam. However, a signed APA may only be effective for up to three (03) tax years from the signing year or the following year, subject to agreement. A signed APA can be renewed for an additional period of up to three (03) years.
- **Optional pre-filing consultation meeting** to discuss covered transactions, methodology, documentation and data.
- **Different authorities for handling APA types**: Bilateral and multilateral APAs are centrally handled by the Department of Taxation ("**DoT**") rather than the Ministry of Finance ("**MoF**") as previously prescribed (except in complex cases where the DoT must report to the MoF to seek its views on the proposed APA negotiation approach), while unilateral APA applications may be decided on and delegated by the DoT to relevant local tax authority for processing.

What businesses should do now

Businesses should consider the following actions:

- Identify key cross-border payments and treaty claims that may be affected by the new guidance on beneficial ownership, treaty benefit denial and claim deadlines.
- Assess whether business activities conducted through e-commerce or digital platform may create PE exposure in Vietnam under the updated guidance.
- Review Vietnam-related M&A and restructuring transactions where Vietnamese immovable property value may be relevant for direct or indirect transfer rules.
- Assess potential MAP cases early, including applicable treaty deadlines, key facts, supporting documents and coordination with domestic dispute procedures.
- Identify material, recurring and stable RPTs that may be suitable for APA.
- Assess the availability and quality of benchmarking, financial and operational data for APA application purposes.
- Consider whether a unilateral, bilateral or multilateral APA would be most appropriate.
- Prepare internal governance for annual APA compliance reporting and monitoring of critical assumptions.

How KPMG can help

KPMG can assist businesses in assessing the impact of the Circular across treaty claims, MAP strategy and APA readiness. For DTA and MAP, KPMG can support high-level impact assessment, review of key treaty positions and support in managing potential double taxation matters. For APA, this includes APA feasibility assessment, transaction screening, benchmarking, pre-filing preparation, negotiation support and post-signing compliance monitoring.

This alert is intended to provide general information only and should not be regarded as professional advice. Businesses should seek specific advice based on their facts and circumstances.

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