



**IC Advisors Transfer pricing Newsletter
June 2014**

Update on BEPS - China

Chinese State Administration of Taxation ("SAT") recently released tax circular Public Notice No. 19 [2013] ("Public Notice 19"). The Public Notice 19 came into effect on June 1st 2014 and it provides technical and practical guidelines for assessment of the nature of the secondment. SAT intends to examine closely all factors to determine the existence of a permanent establishment in respect of non-resident companies seconding their employees to Chinese subsidiaries.

On June 4th, a SAT official affirmed that China's tax authorities will vigorously audit intragroup service fees charged to Chinese subsidiaries by their U.S parent companies by considering six factors to determine whether such charges warrant a transfer pricing adjustment.

Vietnam

Vietnam is one of the latest countries that has stepped up transfer pricing audits in recent years.

The Ministry of Finance set up a 2012-2015 action plan on tax inspection back in May 2012 which emphasised transfer pricing as a key target area. The General Taxation Department also announced that transfer pricing activities will be scrutinised and Foreign Invested Enterprises (FIEs) suspected of transfer pricing are likely to be inspected.

The Vietnamese Ministry of Finance recently released a revised form, Form 03-7/TNDN (Form 3), replacing the current Form GCN/01/QLT with respect to the declaration of related party transactions. Form 3 is applicable from the 2014 tax year onwards and must be filed with the corporate income tax return within 90 days from the financial year end.

There is no formal guidance in completing the form but tax payers are required to self-assess whether the pricing of their related-party transactions are arm's length. Form 3 requires disclosure of any "re-determined" prices based on the calculation of arm's length prices and it shows the difference in taxable profit between the re-determined price and the value of the actual transaction. Taxpayers are also required to substantiate the re-determined amounts of the transactions and are expected to have completed an analysis to arrive at this conclusion.

Maintenance of contemporaneous transfer pricing documentation is required in Vietnam, which would now substantiate the arm's length prices necessary for completing Form 3.

Please contact us if you are interested in obtaining more information on how we can support you in preparing transfer pricing documentation in Vietnam.