



NOTES IN DECLARATION OF RELATED PARTY TRANSACTIONS DISCLOSURE RETURNS FOR FISCAL YEAR 2020 FOR ENTERPRISES IN THE MANUFACTURING, TRADING OR SERVICE SECTORS

On 05 November 2020, Government has issued Decree 132/2020/ND-CP ("Decree 132") providing guidance on tax management for enterprises engaging in related party transactions. Decree 132 will take effect from 20 December 2020 and apply for Corporate Income Tax ("CIT") year of 2020.

Decree 132 has inherited many contents of [Decree 20/2017/ND-CP](#) ("Decree 20") and [Decree 68/2020/ND-CP](#) ("Decree 68") but introduced many key changes relevant to the trend of international tax development. Decree 20 and Decree 68 will be expired from the effective date of Decree 132.

Under the transfer pricing regulations, corporate taxpayers engage in related party transactions shall be responsible for:

- Preparing the Related Party Transactions ("RPTs") disclosure returns and submitting together with the corporate income tax finalization return; and
- Retaining and providing the transfer pricing documentation upon the tax authorities' request.

As from the tax year 2020, RPTs disclosure returns include four Appendices and are introduced by [Decree 132/2020/ND-CP](#) as below:

- Appendix I: Information on related party relations, cases for exemption from obligation of declaration and submission of transfer pricing documentation reports, related party transactions and business performance upon transfer pricing adjustments
- Appendix II: List of information, documents required for Local file
- Appendix III: List of information, documents required for Master file
- Appendix IV: Report on the global assets and transactions of the Ultimate Parent Company (Country-by-Country Report)





1. APPENDIX I – INFORMATION ON RELATED PARTY RELATIONS AND RELATED PARTY TRANSACTIONS

Items	Declared areas	Notable issues and mistakes
PART I. DECLARE THE RELATIONSHIP WITH RELATED PARTIES	Name of the related parties	<p>For Vietnamese related parties:</p> <ul style="list-style-type: none"> Incorrectly declare information in business registration certificate in case related parties are entities Incorrectly declare information in identity card, citizen identification card, passport in case related parties are individuals <p>For foreign related parties:</p> <p>Incorrectly declare information in documents for determining related party relationship such as business registration certificate, contracts, agreements between company and related parties</p>
	Country	<p>Incorrectly declare information of country of related parties</p> <p><i>(Please note that Tax Authorities usually use the declaration of "Country" item for assessing the risks whether related parties are established in tax heaven)</i></p>
	Tax code	Do not declare or inadequately declare tax codes of Vietnamese related parties and identification code of foreign related parties
	Form of relationship	<ul style="list-style-type: none"> Incorrectly declare information of related party relationship according to Clause 2, Article 5 of Decree No. 132 Only declare one related party relationship with a related party in case of having many related party relationships with such related party Use disclosure of "Related parties" presented in Financial Statements for determining related party relationships for declaration. However, there are differences in definitions between "Related parties" presented in Financial Statements and "Related parties" according to Decree No. 132, therefore, enterprises should declare related party relationships according to Clause 2, Article 5 of Decree No. 132 for mitigating mistakes

Items	Declared areas	Notable Issues and mistakes
PART II. CIRCUMSTANCES WHICH ARE EXEMPTED FROM DECLARATION AND SUBMISSION OF TRANSFER PRICING DOCUMENTATION	Tick "x" in "Entitled to exemption"	<ul style="list-style-type: none"> Incorrectly declare information of exemption case or declare exemption for the ineligible exemption <p><i>(Please note that any violation against regulations on exemption declaration according to Article 19 of Decree 132 falls under the case that tax authorities have the right of tax reassessment according to Clause 3, Article 20 of Decree 132)</i></p>
	Related party transaction value	<ul style="list-style-type: none"> Determine values of related party transactions that are not in accordance with regulations (including value added tax and foreign exchange differences) Declare values of related party transactions based on financial statements disclosure but do not review the transactions arisen per the accounting books (i.e. omit transactions) Declare value of related party transactions being inconsistent with Transfer Pricing Documentation
PART III. INFORMATION ON MARKET PRICE DETERMINATION FOR RPTs	Transfer pricing methods	<ul style="list-style-type: none"> Declare transfer pricing method inconsistently with Transfer Pricing Documentation Declare one transfer pricing method for all transactions where there are many transactions with many different transfer pricing methods
	Name of the related partie(s)	<ul style="list-style-type: none"> Incorrectly declare the name of related parties as declared in Part I Declare an aggregation for transactions which is different in nature
	Nature of related party transactions	Incorrectly classify nature of transactions
	Collection/ payment on behalf transactions	Do not declare payment and collection on behalf transactions with related parties
	The taxpayer has signed Advanced Pricing Arrangement (APA)	Omit or Incorrectly declare APA signing status
Revenues from sales and services rendered	Do not separate business results between related parties and independent parties in case of arising revenue from both related parties and independent parties	
Revenues from sales of goods and services exported	Omit or incorrectly declare revenues from sales of goods and services exported	
Cost of goods sold, Selling expenses, General and administration expenses	Cost of goods sold, Selling expenses, General and administration expenses	



2. APPENDIX II – LIST OF NECESSARY INFORMATION AND DOCUMENTS ON LOCAL FILE AND 3. APPENDIX III – LIST OF NECESSARY INFORMATION AND DOCUMENTS ON MASTER FILE

Notable issues and mistakes

- Do not declare Appendix II and Appendix III due to not preparing Local file and Master file
- Stick on items which are not presented correspondingly in Local file and Master file
- Do not collect and prepare Master file but still sticking and declaring Appendix III

4. APPENDIX IV – DECLARATION OF COUNTRY-BY-COUNTRY REPORT

Notable issues and mistakes

- Incorrectly determine declaration obligations in case of company
- Declare Appendix IV only including information of Vietnamese related parties
- Cannot collect Country by Country Report and do not have any explanation letter submitted to Tax authorities



With the above matters, enterprises should carefully review the declared RPTs disclosure returns and proactively follow up detailed instructions from the Tax Authorities relating to the RPTs declaration for mitigating the relevant risks.



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