

VIETNAM

LEGISLATION	
Existence of Transfer Pricing Laws/Guidelines	Transfer pricing legislation is contained in Article 9 of the Foreign Investment Law; Ministry of Finance Circular 74/1997/TT-BCT; Circular 89/1999/TT-BCT; Circular 13/2001/TT-BCT; and Circular 13/2001/TT-BCT. Formal transfer pricing guidelines and documentation requirements have been finalized and released by the Ministry of Finance: Circular No. 117/2005/TT-BTC.
Transfer Pricing Scrutiny	The tax authority is beginning to scrutinize transfer pricing much more closely following the release of the formal transfer pricing guidelines at the end of 2005. Multinational companies that incur consistent losses in Vietnam and yet continue to expand operations there can expect particular scrutiny. The burden of proof rests with the taxpayer to prove that the figures stated in the tax return declarations are proper and reasonable.
Transfer Pricing Penalties	There are no specific penalties for transfer pricing adjustments. General penalties apply for taxpayers that fail to observe the regulation on tax registration; declaration and payment; settlement, accounting regime; invoices and vouchers.
Advance Pricing Agreement (APA)	APAs were not mentioned in the final transfer pricing guidelines issued in 2005.
DOCUMENTATION AND DISCLOSURE REQUIREMENTS	
Tax Return Disclosures	Disclosure of related party dealings is required in the annual tax return.
Level of Documentation	Multinational companies should maintain sufficient transfer pricing documentation to support the pricing of their inter-company transactions, including an industry and functional analysis, and a selection and application of the most appropriate transfer pricing method. Companies should also keep accounting books, invoices, vouchers, and other documents related to tax calculation, tax payment and tax settlement.
Record keeping	Not applicable.
Language for documentation	Documentation for submission to the tax authority should be in Vietnamese.
Small and medium sized enterprises (SMEs)	There are no special provisions governing SMEs.

Deadline to Prepare Documentation	Contemporaneous documentation is required.
Deadline to Submit Documentation	Transfer pricing documentation is required to be maintained and furnished to the tax authority within 30 days of request.
STATUTE OF LIMITATIONS	
Five years from the end of the tax year.	
TRANSFER PRICING METHODS	
The arm's length principle and the OECD methods are endorsed. Traditional methods such as CUP, resale price and cost plus are preferred.	
COMPARABLES	
Foreign comparables would be acceptable as supporting documentation if (as is common) no or limited domestic comparables are available.	
<i>Date: 26 September 2006</i>	