Audit of Price Transfer Activities in Vietnam

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Abstract: Auditing plays a very important role in ensuring the objective honesty of the financial statements, in addition, the audit also has a role in providing users with information about potential risks, related to the continuous operation of the business. Transfer pricing is a problem that many people care about; transfer prices directly affect the interests of the host country as well as related businesses. Researching the status of price transfer and auditing of transfer pricing activities in our country and some countries in the world, thereby giving appropriate solutions to apply in auditing the transfer pricing activities in Vietnam today.

Keywords: Quality audit, transfer pricing, transfer pricing audit, Vietnam

I. INTRODUCTION

Auditing is the activity of verifying and expressing opinions on the status of the audited operation of a separate economic entity by a system of technical methods of document audit and non-voucher audit due to the control qualified and qualified mathematicians perform based on an effective legal basis.

The overall objective of auditing financial statements is the quality of information in the financial statements or the reliability, rationality and legality of the information presented in the financial statements.

Transfer pricing is understood as the implementation of a price policy for goods, services and assets transferred between corporate members across borders without market prices in order to minimize the tax of multi companies. Multi Nations Company worldwide.

The main cause of transfer pricing

First, business entities in the market economy invest in the business for profit.

Secondly, freedom to decide in business.

Thirdly, deriving from the general close relationship of economic benefits between affiliated group members (between companies in the same group, between the parent company and subsidiaries, between joint venture members). ...).

Fourth, deciding on the transaction price policy between affiliated group members does not change the common interest but may change their total tax obligations.

Fifthly, the current legal system still has many shortcomings; there is not enough legal basis for determining the acts of price transfer and weak and insufficient application of sanctions.

Sixthly, the mechanism of inspection, supervision, inspection and audit still has many shortcomings, not enough to detect to handle all price transfer acts.

Seventhly, the management role of the State is still weak; the professional qualifications and skills of a part of managers are not high.

Forms of transfer pricing

• Transfer pricing through improving the value of tangible capital contribution assets

Transfer pricing of this type is relatively common in affiliated enterprises in recent years, including FDI enterprises as well as domestic affiliates in the number of main industries such as garment, footwear and processing. food.

• Transfer pricing through the transfer of intangible fixed assets (enhancing the value of technology, trade ...)

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This form usually takes place in the case of foreign companies transferring production and business technology to affiliates in Vietnam and collecting royalties.

- Transfer pricing through regulating the purchase and sale price of goods

When the import tax is high, the parent company sells raw materials and goods at low prices to avoid paying large import taxes. The parent company will strengthen consulting activities, support high-priced marketing to compensate or buy back products at low prices. For imported goods with low tariffs, the company signed a high-cost import contract to raise production costs, leading to a lower taxable profit.

- Transfer pricing through providing internal corporate services, improving administrative and management costs

- Transfer pricing through interest payment on production and business loans

- Transfer pricing through professional financing from the parent company

- Transfer pricing through invoice renewal centers

Auditing price transfer activities

Independent auditors increasingly play an important role in the market economy. The market economy requires businesses of all economic sectors to manage and operate their production and business needs to have accurate and timely information. To meet this requirement, there must be an objective, independent third party with a high level of expertise, which is allowed by law to provide reliable information to interested parties. This third party is an independent auditor. Especially in the business cooperation relationship with foreign countries, if foreign investors want to learn about business activities and assess the financial situation of an enterprise before investing, business cooperation, the cost for the audit to be effective and much cheaper than the cost that the two parties must spend to negotiate and prove their financial capacity. At the same time, the objective opinion of the audit is always more reliable. Therefore, the independent audit was born to meet the needs of foreign direct investment activities, contributing to improving the investment environment and accelerating the process of economic transformation. Independent auditors are those who directly participate in audits of foreign-invested enterprises, contact with documents and financial reports of FDI enterprises and independent auditors. can grasp the status of business operations, discover the tricks, "tricks" that businesses use to transfer prices, tax evasion, causing loss of state budget revenue.

Objectives of auditing price transfer activities

Audit of transfer pricing is an activity that can be carried out in the financial statement audits or conducted separately as a thematic audit.

For audits of transfer pricing activities integrated into the auditing of financial statements, it also carries the general objective of the audit of the financial statements. Specifically, to help auditors and auditing companies give opinions to confirm that the value of associated transactions is based on current accounting standards, comply with the law as well as have a central reflection. real, reasonable or not.

For operational audits carried out separately, due to being conducted by the state audit agency, its goal is to detect the transfer pricing behavior of businesses, economic entities as well, such as assessing the implementation of policies and guidelines of the Party and the State.

When the auditor conducts an audit of transfer pricing, it plays an important role in solving inequalities in tax payment between FDI enterprises and domestic enterprises and contributes to the fight against the loss of state budget revenue, create a healthy business environment for businesses to grow together and compete equally.

II. AUDIT OF TRANSFER ACTIVITIES IN VIETNAM

Status of auditing of transfer pricing activities in Vietnam

In this section, the data used are taken from the actual survey sample conducted by the research team. The research sample is auditors (KTV) working in international auditing companies and state audit companies. There are 32.3% state-owned KTV, 67.7% independent KTV out of 28 participants participated in answering the questionnaire about auditing activities
of transfer pricing in Vietnam. Most of the auditors surveyed have experience in the field of auditing for many years and have a good understanding of transfer pricing. Independent auditors of the survey sample are currently working in the group of 4 major auditing companies: Deloitte Vietnam, KPMG Limited, PwC, Ernst & Young Vietnam.

When asked about the role of auditors in detecting and preventing transfer pricing, more than 90% of auditors asked that price transfer audits were necessary.

**How to conduct a price audit in Vietnam**

Auditing activities of transfer pricing may be conducted to integrate financial statements audits or be conducted separately, but in anyway, it has certain methods to be able to detect the phenomenon of transfer pricing at enterprises. Corresponding to the type of business, the types of associated transactions that the auditors will offer different methods to conduct evidence collection for activities that show transfer pricing.

Currently, FDI enterprises have very sophisticated forms of price transfer such as raising the value of contributed capital, over-declaring intangible assets, importing materials from parent companies or joint venture partners with high prices increasing the cost of advertising abroad or even through regulating the purchase and sale prices of goods and sponsorship activities. The forms of transfer are very diversified and plentiful, so depending on the different business forms that auditors and auditing companies need to take specific measures, suitable for each auditor. In this situation, the legal provisions relating to control of transfer prices have been issued. Specifically, Circular 74/1997 / TT-BTC, guiding taxation for foreign investors, Circular 89 / 1999 / TT-BTC and Circular 13/2001 / TT-BTC. These legal provisions are the basis for determining market prices in business transactions between affiliated parties. In addition, Circular 117/2005 / TT-BTC is a legal document that is adjusted quite well. Specific measures to combat transfer pricing by regulations on transfer methods. However, these documents only stop at the application of FDI enterprises but have not been applied to domestic enterprises. Therefore, Circular 66/2010 / TT-BTC is issued to determine the market price in business transactions between parties with links including FDI enterprises and other enterprises.

When conducting an audit of linked transactions or items with transfer pricing, the auditor will use the method of an audit of documents and non-vouchers to collect evidence basis of legal documents to conclude on the value of transactions.

Typical examples are FDI enterprises producing and trading tea in Lam Dong. Data reported from enterprises as of December 31, 2009, the total accumulated losses amounted to 317 billion, of which many businesses have suffered losses or nearly all investment capital. However, the Lam Dong Department of Taxation’s inspection results shows that enterprises have transfer prices. These enterprises have the cost of main materials at the price of 175,000 VND / kg of tea. However, the selling price of products for parent companies of these enterprises is 64,580 VND / kg of tea, many times lower than the cost of main materials in the product price.

According to the provisions of Decree 105/2004 / ND-CP issued on March 30, 2004 (Article 10, Chapter I) and the Law on Independent Auditing issued on March 29, 2011 (Article 37, Chapter VI), The financial statements of FDI enterprises must be audited by independent auditing enterprises. Transactions between businesses and affiliates are reflected in the accounting and financial reporting system, so these transactions fall within the scope of the audit, especially with high value transactions. If the auditor sees that the transactions show signs of transfer pricing, the auditor will perform more audit measures than documents to collect more audit evidence to conclude. Transaction value. Where auditors find that it is impossible to gather evidence for verification, then an opinion will be provided except. However, in fact, auditors and auditing companies seem just to stop applying the audit methods of vouchers such as actual comparison of accounting on accounting books with accounting vouchers, for Projection of accounting vouchers with original documents. The audit methods in addition to vouchers are complicated due to the collection of comparative information to conclude the transfer pricing activity, which requires the auditors to have a wide understanding as well as the sophistication of transfer pricing behavior. Making use of these methods still, face many difficulties and has not been used. Therefore, the transfer pricing findings are almost absent in audits. Currently, auditing transactions between affiliated parties are included in the financial report audits without any specialized audits being conducted for the activities of transfer pricing.

Advantages and disadvantages in the process of conducting price transfer audit in Vietnam

The audit process of transfer pricing in Vietnam depends and is influenced by the policy of socio-economic development, law, macroeconomic conditions, globalization process ... The following is a summary. The favorable and difficult conditions that auditors and auditing companies in the auditing process may encounter.

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• **Advantage**

- Transfer pricing is a common problem for all countries with business activities of multinational companies, corporations, groups of companies. Vietnam is a newly integrated country, can learn the scriptures experience of dealing with price transfer activities in developed countries, ahead of auditing of transfer pricing activities; besides, it is an advantage from participating in global organizations for economic development.

- The authorities in Vietnam are increasingly interested in the issue of price transfer, tax evasion, facilitating policies, supporting the most convenient auditing process. Especially the State Audit increasingly has close ties with tax authorities in the process of supporting tax authorities to detect and handle transfer pricing in enterprises.

- State law of Vietnam, Circular No. 201/2013 / TT-BTC regulating the transfer pricing method between multinational companies, corporations - APA pre-valuation method (Advance Pricing Arrangement), being are encouraged to apply and receive much support from FDI enterprises.

According to the amended Tax Administration Law, from July 1, 2013, the mechanism of pre-agreement on price determination is applied in Vietnam

- The team of auditors in Vietnam is increasingly professional and has higher qualifications. Especially, the personnel of a large group of international auditing companies - Big4, is a group of 4 largest auditing companies in the world, with a high level of expertise, good professional skills, and a lot of experiences. Vietnam. Specifically, EY was in Vietnam in 1992, and in the same year, Deloitte also set up an office in Ho Chi Minh City, PWC, and KPMG in 1994.

- More and more training centers for accounting - auditing and finance training such as ACCA, FTMS, ..., as well as supporting efforts of large auditing companies and universities to create courses useful but also very competitive play for students in Accounting-Accounting, Finance-Banking sectors, contributing to the training of talented future auditors ...

- Many FDI enterprises take the initiative in the fight against transfer pricing when committing to use APA pricing methods, the competition for a healthy competitive environment.

• **Hard**

- The current open economy of Vietnam attracts a large amount of foreign direct investment (FDI) annually, these enterprises are often "big men" in the market, experience and tricks in the economy. business is extremely diverse and complex, besides that these companies often have accounting systems, consultants on the process of valuation, professional transfer, these people know very well the law and also very cleverly apply the loopholes of the law, thereby creating economic operations to push up enough documents, legal bases but can easily see the irrational point between the financial situation of the company and the first Private .... It is possible to name many FDI enterprises to invest in developing new production facilities continuously, but throughout the grave For a long time, there has not been any contract for corporate income tax for Vietnam, typically: Coca cola, Metro, Adidas, Keangnam, Pepsico.

Therefore, it can be seen that the transfer pricing procedure of the above enterprises is very sophisticated and complicated, professionally covered, legalizing the buying and selling operations, thus leading to the declaration of a lot of losses. year, profit movement, tax evasion ...

- A difficult problem lies in the audit companies themselves. As mentioned above, multinational companies, large corporations are advised by experts, and auditing companies in some cases are those specialists. The problem is that if big auditing companies "abetting" for enterprises' transfer pricing activities, legalizing them and hiding them in a closed way, it is extremely difficult to detect this activity.

- At present, any enterprise must conduct the financial audit before its tax finalization, unlike before, it does not require all businesses to undergo a new audit. tax payment; Auditing companies have an extremely large number of customers, no longer having to compete fiercely to attract customers like before, thus asking the question "How is the quality of current audits." Whether independence, caution, objectivity, honesty and other principles and standards of auditing are really appreciated as before ...

- The sanctions for tax evasion transfer enterprises in Vietnam currently do not take into account the responsibility of auditing companies and auditors directly related to the main price transfer fraud items because yet, the question that needs
to be addressed now is the interests of the auditing companies as well as the responsibility of these companies when implementing the audited correspondence or not? The truth is that many businesses, after being audited by auditing companies, are still subject to tax inspections, tax arrears and penalties by tax authorities.

For example, in the case of Keangnam Vina transfer price of more than 1200 billion, Deloitte Vietnam auditing company is hired as a consultant on transfer price. Two other transfer services, one of which is a rubber product manufacturing company, is PWC Vietnam auditing firm, which is a transfer pricing consultant, one is a garment manufacturing company, run by KPMG audit firm. Vietnam advises transfer prices ...

- Preferential policies on taxes, capital incentives for regions and sectors have not taken into account the fact that enterprises take advantage of this policy to move capital and profits; Vietnam ’s international cooperation has not created a fair competitive market for FDI enterprises as well as domestic enterprises. This is like a "legalized door" of transfer pricing activities of FDI enterprises, making it difficult for auditors to make conclusions for these enterprises.

- Unbalanced between preferential policies plus corporate responsibility. Moreover, FDI enterprises, multinational corporations, and a group of companies contribute greatly to socio-economic development and support to create great jobs is also one of the reasons leading to sanctions. enterprises with transfer pricing must also consider further; This causes many shortcomings and reservations in the accounting process with such enterprises.

III. RESULTS AND DISCUSSION

Although there is not yet any reliable data to assess the status of auditing of transfer pricing activities in Vietnam, with the mentioned facts, it can be seen that the auditing companies and tax agencies have tried hard and efforts in detecting and preventing transfer pricing fraud. Price transfer activities are increasingly developing in a more sophisticated trend and require control from management agencies as well as audit teams.

So far, Vietnam has not built an auditing roadmap for auditing the transfer pricing as well as unorganized, which are specialized agencies to audit transfer pricing effectively.

Many audits are said to have a hand of auditors to cover up violations of price transfer in enterprises; the audit is not serious; many audit reports are still general, lacking in depth. to items with errors, making it difficult to collect tax inspection evidence from tax authorities.

Solutions to complete audit of transfer pricing activities in Vietnam

First, audit activities with signs of transfer pricing should be carried out in both ways as a separate audit in an audit or joint audit while auditing financial statements.

Auditors depend on the size of the business, the nature of the transfer pricing activity as well as the actual cost, thereby selecting the appropriate way to conduct audits of transfer pricing. If the audit is large-scale, wide-ranging, complex and influential to the economy, it is necessary to conduct a separate audit. And vice versa, it can be conducted in conjunction with auditing Financial Statements to save time and costs but still be strict, serious and careful in every stage of the audit.

Second, auditing activity auditing must be done on all aspects.

Auditors conduct the reference and comparison of transfer prices of transactions of the same type and the same goods; in many subsidiaries and affiliated companies, in many countries in the world where businesses operate. Refer to the experiences of the leading countries, mutual auditing companies — worthwhile based on scientific and objective aspects.

Third, publicize the results of the audit of transfer pricing activities for serious transfer pricing and thereby promote the role of media.

In the trend of globalization, FDI enterprises are getting more and more, so the benefits that those businesses bring are increasingly concerned by people. Especially, the situation of paying corporate income tax of those FDI enterprises. Therefore, the publicity of the audit results in general and the audit of the transfer pricing, in general, is of interest to many people. People and society have more information and an assessment of the financial situation of the Enterprise, activities related to tax obligations in a more comprehensive way. These are professional, objective assessments of the reliability of financial information, and judgments about whether not to transfer pricing.
Fourth, strengthen the participation of state audit agencies in auditing price transfer activities.

Joint-venture enterprises with state capital contribution are auditing objects of state audit agencies. If these enterprises have price transfer activities, the more serious it is, the state audit should pay attention to audit this transfer activity with the purpose of preserving and preventing the loss of state capital contribution in the joint venture.

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