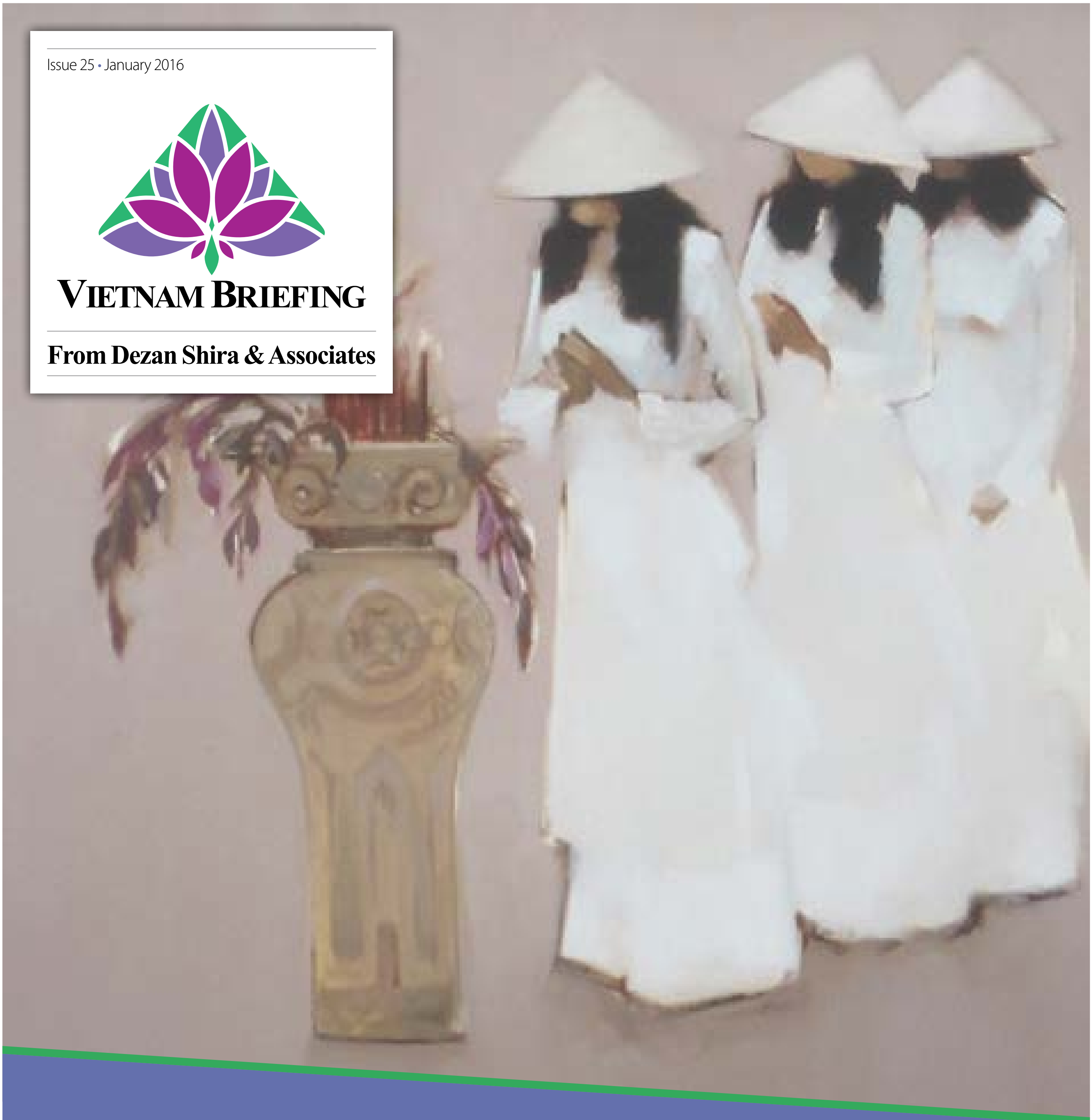
Issue 25 • January 2016

VIETNAM BRIEFING

From Dezan Shira & Associates



Annual Audit and Compliance in Vietnam 2016

Introduction

Alberto Vettoretti
Managing Partner
Dezan Shira & Associates
Vietnam Offices

The first quarter is always a busy time for foreign investors in Vietnam. Compounding license renewals and the issues of new legislation, preparation of annual reports present a significant compliance task for enterprises of all sizes.

Although subject to varying requirements, all foreign entities in Vietnam are required to comply with statutory audit procedures outlined in law and clarified by numerous decisions and circulars. Complex and often subject to changing regulations and guidance, working to ensure compliance with up to date procedures and accounting standards can cause uncertainly for even the most experienced investors.

In this issue of Vietnam Briefing, we address pressing changes to audit procedures in 2015, and provide guidance on how to ensure that compliance tasks are completed in an efficient and effective manner. We highlight the continued convergence of VAS with IFRS, discuss the emergence of e-filing, and provide step-by-step instructions on audit and compliance procedures for Foreign Owned Enterprises (FOEs) as well as Representative Offices (ROs).

Dezan Shira & Associates has a growing team of accounting and legal professionals in Vietnam with years of experience helping foreign enterprises ensure compliance. For questions or information on Annual Statutory Audit Assistance, Bookkeeping, Financial Reporting, or other compliance issues, please contact our offices in Hanoi and Ho Chi Minh City.

Kind regards,

Alberto Vettoretti

This Month's Cover Art
Nguyen Thanh Binh
Oil on canvas, 80 x 95 cm
Green Palm Gallery
info@greenpalmgallery.com
+84 97 762 7722
www.greenpalmgallery.com

Reference
China Briefing and related titles are produced by Asia Briefing Ltd., a wholly owned subsidiary of Dezan Shira Group.

For queries regarding the content of this magazine, please contact:
editor@asiabriefing.com

This Issue's Topic

Annual Audit and Compliance in Vietnam 2016

Table of Contents

Online Resources from Vietnam Briefing

- Navigating the Vietnam Supply Chain
- A Guide to Understanding Vietnam's VAT
- IFRS and VAS Part 1: Introduction to Vietnamese Accounting Standards
- Vietnam's Product Self-Certification Pilot Scheme Explained

Online Resources on Emerging Asia

- Audit and Financial Review
- An Overview of IFRS Adoption in ASEAN – Part One
- China's Annual Audit and Compliance Requirements
- Annual Audit and Compliance for Foreign-Invested Entities in India

Credits
Publisher / Chris Devonshire-Ellis
Editors / Maxfield Brown, Dustin Daugherty and Samuel Wrest
Editorial Assistant / Nguyen Thi Hai Tam
Design / Jessica Huang & Estela Mi

Annual Subscription

The Vietnam Briefing Magazine publishes 4 regular issues and 2 special editions per year. To subscribe, please **Click Here**

- Strategic Advisory & Commentary
- Professional Services
- Regulatory Framework & Updates
- Legal, Tax, Accounting News
- Cross Region Comparisons
- Industry Studies
- Magazines, Guides, Reports
- Podcast & Webinar

This publication is available as an interactive PDF and ePublication. Above are additional clickable resources.

Vietnam's Current Compliance Environment

By Dezan Shira & Associates, HCMC Office
Editors: Maxfield Brown and Thao Dang

The Importance of Annual Audit and Compliance in Vietnam

Integral to the remittance of profit and continuation of operations within Vietnam, changes to annual audit and finalization procedures are of utmost importance. In addition to helping prevent fines and ensuring the continuation of production, close attention to changing audit and compliance procedures is a healthy opportunity for companies to assess their performance as well as discover emerging trends within the Vietnamese marketplace.

VAS Compliance

With all reporting in Vietnam subject to compliance with Vietnamese accounting standards (VAS), companies are advised to double-check their accounting system, taking care to spot possible VAS non-compliance issues. There have been recent reports that some provincial tax authorities cite VAS non-compliance as a basis for collecting additional tax and recovering paid VAT refunds. In addition, tax authorities can penalize companies for VAS non-compliance through the disallowance of input VAT credits and withdrawal of CIT incentives.

Penalties

Failure to comply with reporting requirements and compliance deadlines can carry substantial penalties and in many cases impair the profitability of a given operation. A taxpayer who pays tax later than the deadline has to pay the outstanding tax liabilities plus a fine equal to 0.05 percent of the tax due for each day the payment is late.

Taxpayers that make incorrect declarations, thereby reducing taxes, are to pay the full amount of the under-declared tax or return the excess refund, and will also pay a fine equal to 20 percent of the under-declared or excess refunded tax amounts together with a fine for late payment of the tax.

Changes to be Aware of

Continued Convergence with IFRS

Promulgated in December of 2014, Circular No. 200/2014/TT-BTC brings significant clarification to decision No. 15/2006/QĐ-BTC on Enterprise Accounting. Guidance issued therein continues an ongoing process by Vietnamese authorities to bring national GAAP – VAS – into line with International Financial Reporting Standards (IFRS) issued by the IASB. While the following changes should be noted for their convergence with IFRS, enterprises are highly encouraged to contact local tax officials or engage the services of seasoned advisors in order to ensure compliance with guidance issued under 200/2014/TT-BTC:

Vietnamese Accounting Standard [no.10] – The Effects of Changes in Foreign Exchange Rates

The principles for converting financial statements under Circular No. 200 of 2014 are closer to the International Financial Reporting Standards (IFRS) than previously. Unlike the former Circular No. 244/2009/TT-BTC, which specified that all items in the financial statements of an enterprise must be converted using the average interbank exchange rate at the end of the accounting period, enterprises may now use different exchange rates for different items. In particular, assets and liabilities are converted into VND based on the exchange rate at the end of the period, while the equity of a company's owner is converted at the exchange rate on the date of transaction (i.e. the date of contributing capital). This change may mainly affect foreign-invested companies, banks, and insurance companies since they are most likely to have varied exchange rate conversions for different items.

Vietnamese Accounting Standard [no.14] – Revenue and Other Income

Under Circular No. 200, revenue must be recorded in accordance with the nature of the transaction, rather than its legal form, and only when the enterprise's obligations are completely fulfilled. Thus, an enterprise shall not record the turnover received in advance of the payment schedule from customers.

With regards to products provided for free, which are separate from other sales transactions, the cost of these goods are recorded as selling expenses. However, for products received upon the condition that customers purchase other goods, an enterprise must record revenue for both sold and promotional products. Specifically, the latter is recorded as cost of sales.

As the cost of goods sold and cost of goods provided for promotion were not clearly defined previously, they were all recorded as selling expenses. Therefore, when enterprises apply Circular No. 200, those that operate mainly in manufacturing consumer goods will see their gross profit margin and selling expenses affected. When types of promotional goods are differentiated, reported revenue may decline while operating profit margin may increase, leaving the net profit unchanged.

Related Reading

*For information on **China's annual audit and compliance procedures**, please see our related magazine on the subject.*

DOWNLOAD

E-Filing Gaining Ground

To simplify the tax payment process, the Ministry of Finance has issued Circular No. 110/2015/TT-BTC on electronic transactions in tax administration, which came into effect on September 10, 2015. As prescribed by the Law on Tax Administration, all types of enterprises are required to carry out electronic tax procedures with local tax agencies, including tax registration, filing, payment and refunds.

Different from traditional tax declaration methods, electronic tax transactions may be conducted 24 hours a day and seven days a week, including weekends and public holidays, and can be submitted up until the deadlines specified by tax authorities for their confirmation. In the event of rejection of electronic tax documentation, tax authorities or T-VAN service providers must send the confirmation or reasons for rejection to the taxpayer via the General Department of Taxation's web portal.

Digital Certificates

In order to make electronic transactions, taxpayers must have valid digital certificates issued and recognized by public digital signature certification service providers or competent state authorities and have access to the internet. Those without digital certificates must provide tax authorities with email addresses and mobile phone numbers. Furthermore, under Circular No. 110/2015/TT-BTC, taxpayers are allowed to register multiple digital certificates for one or several tax-related procedures and open multiple bank accounts for electronic tax payments.

Security Concerns

Information security of online tax declaration is one of the main concerns of enterprises which have not registered for electronic tax transactions. With regards to the transmission and exchange of information about electronic tax transactions, data must be secured in accordance with the Law on Information Technology and the Law on Electronic Transaction. Taxpayers are advised to change the default password of the transaction account with tax authorities and keep changing it every six months to ensure the confidentiality and security of electronic transactions.

A Guide to Navigating Annual Audit and Compliance

By Dezan Shira & Associates
Editor: Maxfield Brown

Whether it be convergence with IFRS, the growth of e-filing, or simple efforts to improve business competitiveness, Vietnam has a continually changing set of audit procures that must be followed closely in order to ensure compliance. Below we provide a step by step guide on this process for two of the most common investment vehicles of foreign enterprises in Vietnam: Foreign Owned Enterprises (FOEs) and Representative Offices (ROs).

Foreign Owned Enterprises (FOEs)

Applicable to Joint Ventures as well as 100 percent FOEs, the FOE compliance process in Vietnam can be complex and time consuming. Successful completion requires the compilation of a statutory annual audit report, and the finalization of corporate and personal income taxation. Following successful submission of this information to various government bodies, it becomes possible for firms to repatriate profits from their operations. With rules constantly changing, prospective and established investors alike should contact a service provider or relevant government officials to ensure that reports are prepared in accordance with the most up to date regulations.

Step 1
Preparation of the statutory annual audit report

All foreign owned enterprises in Vietnam are required to produce audited financial statements on an annual basis. These statements must be prepared in accordance with Vietnamese Accounting Standards (VAS) and follow the most up to date guidance available. Per Vietnamese law, compilation of all reporting must be conducted externally from invested enterprises by an independent auditor.

The following audit procedures must be followed and documentation prepared to ensure compliance:

Statutory Audit Requirements

- Statement of income;
- Statement of financial position;
- Statement of changes in equity (if any);
- Statement of cash flow;
- Balance sheet;
- Notes.

Requisite Documentation

- From 04-CS/SXK: Report on Production and Business Activities:
  - » Actual Operating Business Lines;
  - » Labor Statistics (Number of Employees, turn over, etc.);
  - » Labor Income and employer payments of social insurance, health insurance, unemployment insurance, and trade union fees;
  - » Production and business activity results (revenue, profit, cost, etc.);
  - » Taxes and other amounts payable to the state.

- From 04-CD/GVGL: Report on Charter Capital Contribution:

  » Initial registered charter capital;
  » Current registered charter capital;
  » Implemented charter capital in the reporting year;
  » Charter capital accumulated by the end of the year.

Deadlines

Within 90 days after the end of the fiscal year, FOEs need to submit audited reports to the following three government departments:

- Provincial Department of Planning and Investment (DPI) or the Provincial-Level Export Processing and Industrial Zone department in the case of FOEs based in Investment Zones (IZs) or Export Processing Zones (EPZs);
- 2 Provincial Level Tax Departments;
- 3 Provincial level Statistical offices.

Note: upon receipt of documentation, the aforementioned offices are to place an incoming stamp directly on one copy of submitted reports for confirmation purposes.

Step 2
CIT Finalization

In addition to the submission of quarterly Corporate Income Tax (CIT) declarations, FOEs in Vietnam must conduct CIT finalization at the end of every year.

The standard tax year applied in Vietnam is the duration of one calendar year. If a different year is to be utilized, the enterprise in question must report this to the local tax agency.

When preparing finalization paperwork, enterprises should pay close attention to revenue streams to ensure all requisite income is included in finalization statements. Currently, revenue applicable for CIT includes any and all income arising from production, trading, and service; irrespective of whether it has been generated within Vietnam.

Following an assessment of revenue streams, outstanding obligations, and investment incentives, it is a possibility that taxes may be reduced substantially or avoided altogether. In the event that no tax liability has arisen or taxation has been exempt under applicable tax incentives, enterprises must still complete tax filings with tax authorities by established deadlines. It should be noted, however, that filing is not required for enterprises whose tax-generated activities are terminated or have ceased business operations and no tax liabilities have arisen. Those finalizing Corporate Income Taxation should prepare CIT reports in accordance with the following requirements and deadlines:

Requisite Documentation

- Form 03/TNDN: CIT finalization statement as issued by Ministry of Finance Circular 28/2011/TT-BTC on February 8th, 2011;
- Annual Financial Statements and other related documents;
- One or more annexes enclosed with the declaration (depending on the actual arising of the enterprise).

Deadlines

- Submission of finalization paperwork must be submitted to the head of relevant tax agencies 90 days prior to the end of the fiscal year.
- For cases of operation termination, contract termination, or corporate ownership transformation tax offices must be made aware 45 days following the date at which changes were made.

Note: In the case of unavoidable accidents such as fires, natural disasters, and other unforeseen events that prevent the taxpayer from filing on time, the head of the tax agency can extend deadlines by up to 60 days.

Tax Declaration and Finalization Timeline for a Fiscal Year (F/Y)*

Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar

Monthly declaration (20th day after month end)

Quarterly declaration (30th day after quarter end)

Annual declaration (30th day after F/Y end)

Annual finalization (90th day after F/Y end)

Step 3
PIT Finalization

FOEs, as employers, are responsible for the finalization of all personal income taxation of their employees covering deductions from salaries throughout the year.

Enterprises finalizing PIT for their employees should make sure that the following forms are successfully completed by the deadlines outlined below:

Requisite Documentation

- Form No. 05/KK-TNCN: PIT finalization statement;
- Form No. 05A/KK-TNCN: The list of taxable income and tax deductions from salaries and wages of resident individuals who are engaged in an employment contract;
- Form No. 05B/KK-TNCN: The list of taxable income and tax deductions from salaries and wages of resident individuals who do not have an employment contract, have an employment contract of less than three months, or other non-resident individuals.

Note: in the event that enterprises are consolidated or merged, they must complete PIT finalization for deducted tax in advance of these changes and provide a voucher to employees for their PIT finalization at the end of the year.

Deadlines

Submission of Finalization paperwork must be completed no later than 90 days from the end of the calendar year and sent to the tax office that directly manages the enterprise. In most circumstances, this is the department of taxation in the province or city that the enterprise conducts its operation; however, there may be instances where local tax offices authorize alterative state bodies to collect taxes.

Step 4
Social Insurance Finalization

In addition to their Vietnamese counterparts, all foreign employees working in Vietnam under labor contract with indefinite terms, or definite terms of over three months, are to be included in the mandatory health insurance scheme.

As part of the compliance process companies are required to issue all employees with health insurance cards. In the event that new employees have been hired or cards – which are normally valid for one year – have expired, new cards must be issued. In the latter months of the year, a social insurance officer will send out instructions pertaining to the documentation and distribution of cards.

Deadlines

Issuance of health insurance cards must be completed by the end of the year

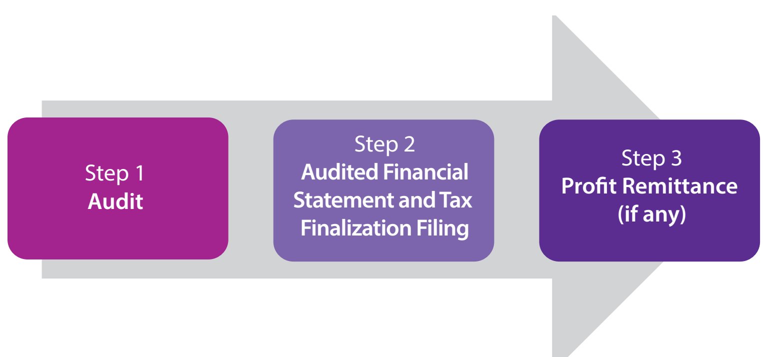
Step 5
Profit Remittance

Following tax finalization, or the termination of investment projects in Vietnam, profits may be remitted to offshore accounts. For enterprises whose investments are still in operation within Vietnam, profits may only be remitted in the event that the FOE in question has not accumulated losses.

It is also important to note that, in addition to tax finalization requirements, remittances are also subject to regulation under the law on foreign exchange management and other laws concerning the import and export of goods.

Deadlines

In the event that an FOE has completed tax finalization, relevant tax office must be notified of any plan to remit profits at least seven working days before the scheduled transfer.



Representative Offices (ROs)

Representative offices are one of the simplest ways for foreign businesses to establish a presence within Vietnam. While restricted from directly conducting profit generating activities within the country, ROs face greatly simplified reporting requirements compared to their FOE counterparts. Primary compliance tasks are limited to compilation of an annual report, PIT finalization, and basic social insurance obligations. Nonetheless, firms with an established presence in Vietnam or those considering investments in the future should pay close attention to the requisite information that must be prepared on an annual basis

The following steps outline information, documentation, and deadlines that must be followed by ROs to ensure compliance with Vietnamese law:

Step 1
Annual Report

Preparation of an annual report is the most important compliance task for representative offices within Vietnam. Currently, ROs must include basic contact information, breakdowns of their human resources situation, and details of on annual operations as part of this report.

Basic Information

ROs must include contact information for their offices within Vietnam. This should include the full name of representative offices, addresses, telephone and fax numbers, primary email addresses, as well as contact information for the primary banks that ROs conduct business with in Vietnam.

For enterprises that have just one representative office within the country, the name of the RO should include the words "...in Vietnam". In the case that more than one office is located throughout the country, the name of each RO must include the city in which the RO is located. Example: ". . . in Hanoi, Vietnam"

The address listed must match the address that appears on the licenses for the RO. In the event that a given address is changed, enterprises should make sure to notify relevant officials. Authorities may pass by without prior notice to check whether or not the RO actually operates at a given address.

Human Resources Situation

As part of the annual reporting process, all ROs within Vietnam are required to document their policies regarding employment as well as the status of all existing employees within Vietnam. Pursuant to these requirements, all policies regarding salaries, bonuses, insurance, and other benefits should be outlined. Additionally, the number of Vietnamese and foreign staff should also be clearly stated.

Personal information for all current employees is also to be included within this report. This should be comprised of the name, gender, nationality, passport or ID number, and position of all staff.

Annual Operation Activities

ROs are required to report their operational status from the preceding year including information on the promotion of export or import contracts, processing and service agreements, market research, as well as any other activities such as advertising, social activities, or participation in trade fairs. This report should also include an evaluation of its operation activities during the year as well as recommendations for the next year.

Requisite Documentation

- Form BC-1: attached to Circular 11/2006/TT-BTM, this form includes instructions on what to include within the annual operational activities report as well as guidance on how to prepare this information.

Deadlines

- Annually, before the last working day of January, representative offices are required to send written reports – covering their operations for the preceding year – to the provincial agency that granted the representative office its establishment permits.
- In the event of changes relating to the number of employees in an RO, the RO in question must report these changes to the competent authorities within 10 working days of these changes. This report should provide updates on the number of foreign staff and Vietnamese staff employed by the RO as well as the full names, identity card/passport numbers, gender, nationalities, and position of any new employees.

Document Checklist	
FOEs	
From No. 04-CS/SXK	Report on Production and Business Activities
From No. 04-CD/GVGL	Report on Charter Capital Contribution
Form No. 03/TNDN	CIT Finalization Statement
Form No. 05/KK-TNCN	PIT Finalization Statement
Form No. 05A/KK-TNCN	List of income and deductions of resident employees
Form No. 05B/KK-TNCN	List of Income and deductions of non-resident and temporary employees.
ROs	
Form No. BC-1	Annual Reporting Guidance
Form No. 05/KK-TNCN	PIT Finalization Statement
Form No. 05A/KK-TNCN	List of income and deductions of resident employees
Form No. 05B/KK-TNCN	List of Income and deductions of non-resident and temporary employees.

Step 2
PIT Finalization

ROs are responsible for declaring and reporting Personal Income Taxation (PIT) on behalf of their employees throughout the year. The following documents should be completed by the deadline below to ensure compliance:

Requisite Documentation*

- Form No. 05/KK-TNCN;
- Form No. 05A/KK-TNCN;
- Form No. 05B/KK-TNCN.

**Documents listed are the same as those that are required of FOEs. See FOE compliance process for more information.*

Deadlines

All documentation for ROs should be submitted to the Department of Trade no later than 90 days following the end of the calendar year.

Note: while the process for PIT finalization is similar between FOEs and ROs, it is important to reiterate that the submission deadlines for ROs are based on the calendar year and therefore contrast with FOE deadlines which are tied to the fiscal year.

Step 3
Social Insurance

In addition to the compilation of Annual Reports and the preparation of documentation relating to the finalization of Personal Income Finalization, ROs within Vietnam are obligated to distribute health insurance cards to all employees by the end of the year. For information on specific requirements, deadlines, and other areas pertinent to compliance, please refer to Step 4 of compliance for FOEs.

Q&A

Optimizing Your Audit and Compliance Experience

Editor: Maxfield Brown

Minh Dang
Senior Associate
Corporate Accounting Services
Dezan Shira & Associates
Ho Chi Minh City Office

Q: *What is the most effective way to coordinate between VAS and accounting requirements of a parent company's home market?*

MD: Companies may choose to manage two accounting records; one based on the VAS and another compiled specifically for the overseas head office. In practice, many foreign investors maintain an accounting system according to VAS and only convert financial statements into IFRS on a quarterly basis for foreign parent company reference.

Q: *Does Vietnam apply separate accounting requirements for Small and Medium Sized Enterprises (SMEs)?*

MD: Yes, Vietnam requires that SMEs comply with a simplified set of accounting standards that are loosely based on IFRS for SMEs and first outlined in Decision 48/2006/QD-BTC. The application of the following VAS should be expected as an SME when conducting annual audit and compliance:

Application of VAS for SMEs

Full application	Partial application	Non applicable VAS
VAS 01, 05, 14, 16, 18, 23, 26	VAS 02, 03, 04, 06, 07, 08, 10, 15, 17, 21, 24, 29	VAS 11, 19, 22, 25, 27, 28, 30

Q: *Is a lack of investigation or penalty an indication that compliance has been achieved?*

MD: No, with limited resources for enforcement, non-compliance can often go undetected for many years by Vietnamese officials. However, increased funding and efforts to improve enforcement increase the possibility that longstanding discrepancies may be found. Furthermore, continued regulatory convergence with IFRS, among other changes aimed at incentivizing investment, present a annual uncertainties for those with existing operations. To ensure continued compliance with existing regulations, it is highly recommended that firms engage the service of seasoned professionals or keep in close contact with relevant government officials.

Q: *How can Dezan Shira assist businesses in the annual audit process?*

MD: Established in 2008, our Vietnamese audit team is comprised of qualified professionals who are well versed in VAS and able to ensure compliance with the most up to date standards issued within Vietnam. Furthermore, with global locations spread across 12 countries and three continents, Dezan Shira and Associates is well positioned to assist companies as they prepare annual reports for parent companies in their home country.