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# Some solutions to combat tax base erosion in Vietnam

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**Abstract**

Tax base erosion poses a significant challenge to tax collection and financial stability in Vietnam. This study explores potential solutions to address tax base erosion in Vietnam today. The study employs analytical and comparative methodologies to evaluate the current state of tax base erosion in Vietnam and propose viable solutions. Firstly, it is imperative to enhance the effectiveness of tax management by adopting advanced technology and comprehensive workforce training. Furthermore, implementing stringent regulations on transfer pricing and deploying measures to deter tax avoidance can mitigate profit shifting and tax evasion perpetrated by multinational corporations. International collaboration also holds a pivotal role, involving the ratification of tax treaties and active engagement in global initiatives such as the OECD's BEPS framework. Lastly, fostering a competitive business environment and promoting economic diversification can reduce dependence on industries susceptible to tax erosion. The Vietnamese government can effectively counter tax base erosion by integrating these measures, safeguarding fiscal stability, and fostering socio-economic progress.

Keywords: Tax base erosion, transfer pricing prevention, BEPS, tax management, tax base.

## 1 Introduction

In the context of deepening globalization and the breakthrough development of information technology, new economic models, such as the sharing economy and the digital economy, are reshaping the operations of traditional businesses (El Arabi, 2020). Multinational corporations have exploited loopholes to evade tax obligations through profit shifting and transfer pricing. These activities have significantly depleted the revenue sources of countries' budgets, leading to disputes and tax disagreements among nations. Some countries have chosen to reduce corporate income taxes to allure and retain investors. Nonetheless, this has provided favorable conditions for multinational corporations, enabling them to evade corporate income taxes, even with substantial profits, or evade taxes altogether (Cahanin, 2018).

Taxation plays an undeniable role in funding the budgets of countries and territories worldwide. However, according to statistics from the Organisation for Economic Co-operation and Development (OECD), intra-group trade activities of multinational corporations contribute over 30% to the total global trade value. OECD studies have also indicated that corporate tax revenue from multinational corporations accounts for between 4% and 10% of the total budget revenue from corporate taxes globally (OECD, 2021). Experts attribute this situation to multinational corporations implementing tax minimization measures and profit shifting. Therefore, researching, analyzing, and evaluating tax minimization measures in general and combating tax minimization specifically for foreign direct investment enterprises are of significant theoretical and practical importance.

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The international tax system, spanning over a century, has established several principles regulating cross-border transactions between countries, often through bilateral agreements (Chaouche, 2019). The main objective is eliminating double taxation for multinational enterprises operating in source and resident countries (OECD, 2015). However, due to the complexity and loopholes in international tax regulations compared to different and unbalanced regulations, multinational companies have exploited them, often through legal means, to optimize tax (Fuest et al., 2019). Multinational corporations often shift profits to countries with low or even zero corporate income taxes, referred to as tax haven jurisdictions (Fuest et al., 2019), to evade tax obligations (Sasse et al., 2020). Therefore, governments of various countries are concerned about the erosion of tax bases (Sasse et al., 2020; Oanh Pham Thi Thu et al., 2024).

The OECD has actively developed a strategy to combat this tax evasion by implementing the "BEPS project" with 15 actions (Broussolle, 2020). Some of these actions are designed to clarify and address challenges related to transfer pricing (OECD, 2017). However, within the scope of this research paper, the focus is on elucidating the phenomenon of tax base erosion in Vietnam through BEPS transfer pricing behaviors and tax avoidance.

## 2 Literature review

### *2.1 The concept of tax base*

The term "Tax Base" (TB) holds various meanings depending on the context in research. From an overall tax system perspective, TB signifies the taxable capabilities or economic scopes that the Government can regulate through tax measures (Kagan, 2023). A tax system encompassing all taxable capabilities, with broad TBs in the economy, would establish a large regulatory scope capable of generating significant tax revenues and minimizing tax base erosion, thereby limiting potential tax revenue losses (Nguyen Dinh Chien, 2021). When viewed from a general perspective of tax types, TB denotes each tax type's taxable object or taxpayer. Depending on specific tax types, TB will be defined differently but generally indicates how much that tax type affects its tangible objects or taxable subjects. Expanding the scope of taxable subjects or reducing non-taxable cases and exemptions will result in the expansion of TB, and vice versa. When considering the specific contents of each tax type, TB represents the basis or method of tax calculation based on the taxable subject of that tax type. This often pertains to the characteristics of the taxable subject used to determine the amount of tax payable (Walczak, 2019).

### *2.2 The concept of tax base erosion*

Base erosion is a phenomenon in taxation, whereby organizations or individuals exploit loopholes or tax conditions to unfairly or unjustly reduce or eliminate their tax obligations (Uluatam, 1997). This often occurs through using financial or legal techniques to shift income or assets to countries with low or no taxes. According to the OECD, base erosion is "the use of tax loopholes or conditions to transfer income from business activities to countries with low or no taxes, thereby reducing tax obligations" (OECD, 2017). Base erosion frequently leads to inequality in the tax system, resulting in some individuals or organizations paying little or no tax, while others bear a higher tax burden (OECD, 2013). This can lead to countries' tax revenue loss and negatively impact fairness and transparency in the global tax system.

### *2.3 Common Behaviors Causing Tax Base Erosion*

Several common behaviors contribute to base erosion in tax systems worldwide. Here are some typical behaviors:

*Transfer Pricing*

Businesses often utilize transfer pricing measures to shift profits from high-tax to low-tax or tax-free jurisdictions. This strategy is typically implemented by establishing unfair prices for transactions between their branches, aiming to minimize taxable profits (Lymer & Hasseldine, 2002).

Transfer pricing involves setting price policies for goods, services, and assets transferred between members of a multinational corporation across borders, not adhering to market prices to minimize Global Corporations (MNEs) worldwide tax obligations. This applies to products, including physical assets, intangible assets, services, and benefits from interest rates, transferred between related parties without adhering to usual market prices, to minimize the tax liabilities of affiliated parties globally (OECD, 2010). Transfer pricing can lead to increased tax obligations in one country and reduced obligations in another. However, overall, the corporation's tax obligations will decrease compared to the case without transfer pricing.

Common transfer pricing methods include: Increasing the value of contributed capital assets; Importing equipment, raw materials, and components from the parent company or foreign partner at high prices; Interest expense; Intellectual property ownership; Administrative and management costs; Adjusting purchase and sale prices of goods; Selling goods to the parent company at low prices; Creating invoices through recycling centers.

*Tax Treaty Abuse*

Multinational corporations (MNCs) often exploit tax treaties to avoid taxes, particularly by routing direct or indirect investments from foreign countries through a third country to benefit from tax incentives committed to in those treaties (Weyzig, 2013; Kandev, 2009) . Most countries typically enter into bilateral tax treaties to prevent double taxation on businesses' foreign-source income. By leveraging tax treaties, MNCs may benefit from tax advantages in a country where they previously had no entitlements.

To determine whether a situation constitutes tax treaty abuse, it is not necessary to violate any treaty provisions but must run counter to the objectives and purposes of the tax treaty (Garcia Prats, 2010). Treaty abuse occurs when residents of a third country inappropriately access a tax treaty to avail themselves of its benefits, including structures or transactions used by residents of treaty-signatory countries, with the hope of undermining anti-abuse measures (Cooper, 2014). Treaty signatories may alter their domestic policy frameworks and legislation to create favorable conditions for the treaty, potentially resulting in significant tax revenue losses for non-treaty parties.

*Utilizing Tax Havens*

Entities and individuals often establish bases or headquarters in countries or territories with low or zero taxes, known as tax havens. This allows them to avoid or minimize tax obligations in countries with higher taxes. Organizations frequently exploit complex financial techniques such as creating capital structures, establishing parent-subsidiary companies, or utilizing legal, financial instruments like cross-border tax agreements to minimize tax liabilities. Additionally, organizations often leverage a lack of transparency and inaccurate information to conceal profits and evade tax obligations. These behaviors contribute to base erosion and pose significant challenges to tax systems worldwide.

## 3 Methodology

This study employs the following specific qualitative research methods:

Comparative method: The research compares and contrasts information, documents, and numerical data to identify similarities and differences and to understand causes and laws through comparison and contrast. This method compares changes over time in the tax base erosion situation and the specific outcomes of each aspect of Vietnam's tax base erosion prevention work. Thus ensuring accurate assessments that reflect the reality and essence of the research subject.

Situational method: The study of typical case scenarios of behaviors causing tax base erosion verifies whether foreign direct investment enterprises in Vietnam engage in such behaviors, resulting in tax base erosion.

## 4 Results

### *4.1 Activities of Foreign-Invested Enterprises in Vietnam*

Presently, Vietnam has garnered investment from 142 countries and territories across the globe. Among these, Vietnam's most significant investment partners often stem from the East Asian region, with South Korea, Japan, and Singapore consistently ranking at the top of the list of countries investing in Vietnam for numerous years. Overall, Vietnam remains an appealing destination for foreign direct investment (FDI). Vietnam's preferential corporate income tax policies are deemed more attractive than those of other countries in the region. Thanks to competitive tax policies, advantages such as economic and political stability, and an abundant labor supply, the influx of foreign direct investment into Vietnam has steadily increased over the years. In 2020, Vietnam was ranked first among the top 20 countries globally attracting FDI despite a global decrease in foreign investment. In 2021, the FDI inflow into Vietnam continued to maintain stability and surpassed $31 billion, marking a 9.2% increase in the same period in 2020. In 2022, Vietnam attracted nearly $30 billion in FDI; although it experienced a decrease compared to the preceding year, it still exhibited positive signs amid the pandemic. However, the anticipated global minimum tax is expected to directly impact FDI flows worldwide, posing potential challenges for Vietnam in attracting FDI through tax incentive policies.

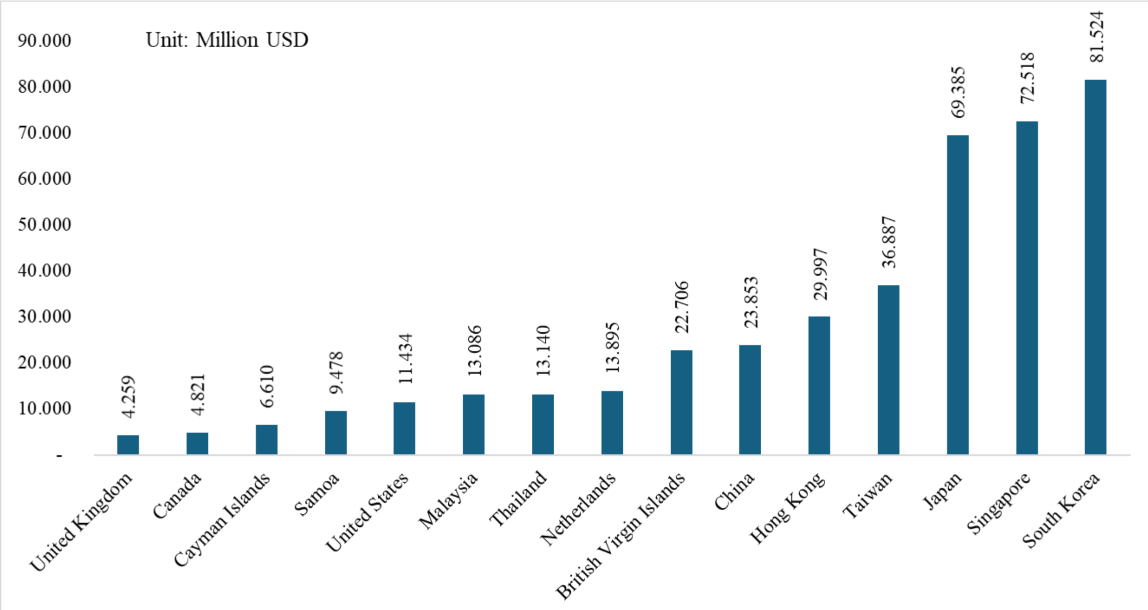


Fig.1. Foreign investment in Vietnam by country

(Source: Ministry of Planning and Investment, accumulated until December 31, 2022)

Enterprises engaged in Foreign Direct Investment (FDI) also hold significant importance in contributing to state budget revenue, with their contribution ranging from 16.57% to 17.78% during the period from 2016 to 2022 (Tab.1). Particularly, the contribution from corporate income tax (CIT) of FDI enterprises accounted for 6.5% to 8.5% of the total revenue of the state budget during the same period from 2016 to 2022.

Table 1. Contribution to State Budget of FDI Enterprises in Vietnam from 2016 to 2022

| Year | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|---|
| Total state budget revenue from tax sector (billion VND) | 844,214 | 969,458 | 1,080,885 | 1,219,969 | 1,244,073 | 1,248,200 | 1,387,200 |
| State budget revenue from FDI (billion VND) | 150,128 | 172,166 | 190,309 | 212,199 | 206,088 | 217,261 | 242,778 |
| Percentage (%) | 17.78 | 17.76 | 17.61 | 17.39 | 16.57 | 17.41 | 17.50 |

(Source: Ministry of Planning and Investment, 2022)

Moreover, according to statistical data from the Ministry of Finance, among a total of 141 countries or territories investing in Vietnam, there are noteworthy points as follows:

- Out of 122 countries or territories with an average tax rate from 2016 to 2022 below 20%, 48 countries or territories fall into this category. Notably, 9 countries or territories apply a 0% tax rate among these.
- Among a total of 58 countries or territories with an average effective tax rate from 2016 to 2022 below 20%, there are 29 countries or territories. Among these, 08 countries or territories apply tax rates regulated from 20% upwards, but their effective tax rates remain below 20%.
- There are 43 countries or territories considered tax havens, accounting for 31.71%. Among the 66 countries or territories on the tax haven list, up to 43 countries or territories have investments in Vietnam. Notably, among these 4 countries or territories, such as the British Virgin Islands, the Netherlands, the Cayman Islands, Luxembourg, and Bermuda, are considered tax havens by all four organizations or research institutions. Meanwhile, 3 countries or territories, such as Singapore, Hong Kong, Marshall Islands, Cook Islands, Antigua and Barbuda, Anguilla, Bahamas, Ireland, and Barbados, are considered tax havens by 3/4 of the organizations or research institutions. According to the latest report from the European Union's tax watchdog, the largest banks in Europe are pocketing an average of 20 billion euros (equivalent to 23.7 billion USD) annually in tax havens, constituting 14% of their total profits. This finding is based on data from 36 top European banks headquartered in 11 countries since 2015.

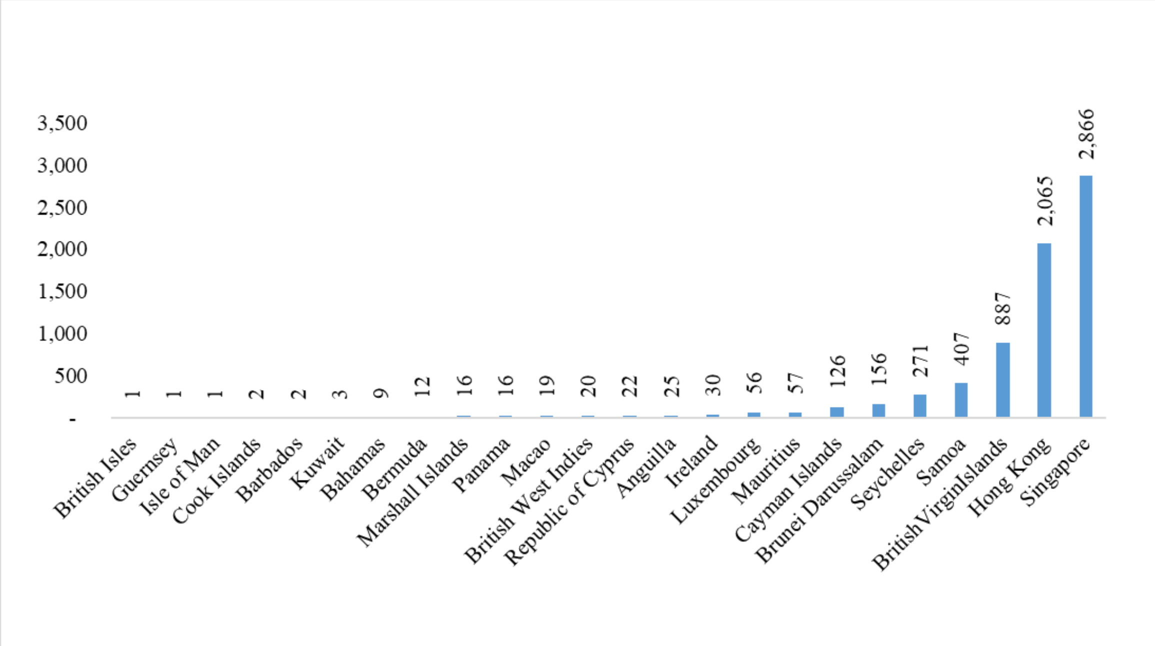


Fig.2. The number of FDI in Vietnam from tax haven countries

(Source: Ministry of Planning and Investment, accumulated as of December 31, 2022)

From these risk assessments, it can be observed that in Vietnam, there are still many conditions for FDI enterprises to engage in tax-base erosion behaviors. Furthermore, despite the increasing investment capital from FDI enterprises, their contribution to the state budget revenue is not considered proportional to the scale and benefits enjoyed by this group. Tab.2 below presents the business results of FDI enterprises from 2016 to 2022.

Table 2. Business Performance of FDI Enterprises from 2016 to 2022

| Year | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|---|---|---|---|---|---|---|
| Number of enterprises | 13,976 | 16,238 | 16,878 | 18,785 | 22,257 | 25,987 | 27,894 |
| The profit-making enterprise ratio | 66.60% | 48.00% | 53.40% | 45.00% | 44.00% | 45.00% | 51.00% |
| The loss-making enterprise ratio | 33.40% | 52.00% | 46.60% | 55.00% | 56.00% | 55.00% | 49.00% |

(Source: Ministry of Planning and Investment, 2022)

From 2016 to 2022, the number of FDI enterprises in Vietnam witnessed an annual increase. Nonetheless, the proportion of FDI enterprises reporting business losses experienced a notable surge, reaching its peak from 2019 to 2021 with rates ranging from 55% to 56%. This figure is substantially higher than the proportion of domestic enterprises recording business losses during the same period (approximately 48%).

### *4.2 Current Situation of Tax Base Erosion Behavior in Vietnam*

*Transfer Pricing Situation*

Firstly, multinational companies originating from countries/territories with lower tax rates than Vietnam carry out transfer pricing practices. Vietnam is one of the most economically integrated countries with low domestic savings and investment rates. From 2016 to 2022, the FDI inflow into Vietnam has been continuously increasing, notably with approximately 28% coming from countries/territories with very low corporate income tax rates such as Singapore, Hong Kong, British Virgin Islands, and Cayman Islands. Therefore, it is likely that multinational corporations from these locations are transferring profits out of Vietnam to reduce their tax liabilities here.

Secondly, the trend of transfer pricing is increasingly evident in FDI enterprises through the increasing proportion of enterprises reporting losses and accumulated losses over the years. From 2016 to 2022, 33.4% to 56% of the number of FDI enterprises reported losses annually, with 2020 marking the highest rate at 56%. Common transfer pricing methods applied by FDI enterprises include declaring high prices for goods, raw materials, and internal service supplies within the group or borrowing from parent companies or affiliates with high interest costs to transfer profits abroad.

Thirdly, transfer pricing behaviors are becoming more diverse and complex, appearing in multinational corporations and affiliated units. Among these behaviors, transfer pricing losses are the most common in Vietnam. This is often done by increasing input costs and reducing output revenue of subsidiary units, leading to reduced profits and transferring profits to other subsidiary units called profit transfer units.

Fourthly, some typical transfer pricing forms by FDI enterprises in Vietnam include declaring high prices for goods, raw materials, and administrative, technical, and legal services within the group, such as Adidas Vietnam, Coca-Cola Vietnam, and Pepsi Vietnam. These companies often continuously report losses but still continue to invest and expand their business operations. Coca-Cola Vietnam has continuously reported losses for over 20 years but continues investing and expanding its business, avoiding corporate income tax. Keangnam Vina Company also pays high interest rates and large operating expenses. PepsiCo Vietnam has also reported losses almost continuously but still expands its investment and builds new factories.

Fifthly, foreign investors are increasing M&A activities in Vietnam, with many large deals attracting attention. Notably, there have been 20 recent major M&A deals, of which about one-third are from Thailand. Prominent M&A deals include the Beverage Group's acquisition of Sabeco, Central Group's acquisition of the BigC supermarket chain, TCC Holdings' acquisition of Metro Cash&Carry Vietnam, and many others. This situation may be due to FDI enterprises facing difficulties or intentionally acquiring domestic enterprises to carry out transfer pricing behaviors.

*Current Situation of Treaty Abuse Behavior in Vietnam*

The double tax treaty abuse between Vietnam and certain countries/territories inaccurately portrays the situation of foreign investment into Vietnam, leading to Vietnam's tax collection limitations and facilitating behaviors that erode the tax base. Specifically, while the tax treaty system is more comprehensive than the average of developing countries, it still harbors many loopholes and risks. Provisions within these agreements that receive low scores and pose high risks include the duration of activities required to establish residency, provisions regarding permanent establishments for agents, low tax rates on dividends, interest payments, royalties, and technical management fees. However, the detection and evaluation of instances of treaty abuse in Vietnam remain limited and require attention.

*Current Situation of Exploiting E-commerce Activities*

E-commerce (EC) business activities frequently lack physical trading headquarters and conduct transactions online, posing challenges in controlling these activities and leading to more prevalent tax evasion behaviors. Tax base erosion in EC often involves businesses or individuals not registering or paying taxes. This is because organizations and individuals can engage in cross-border business without falling under the tax jurisdiction of any country, as transactions are conducted online and do not necessitate physical presence. Determining whether a company or individual is a resident in Vietnam is also challenging, resulting in many companies choosing not to register their business or taxes. Furthermore, conducting promotions and sales on EC platforms without a physical presence in Vietnam complicates legal processing.

In EC business activities, non-declaration or under-declaration of transaction values or income is common and difficult to monitor. These behaviors often stem from online advertising and engagement on social media. In EC, distinguishing income sources such as royalties, service fees, and merchandise revenue is challenging. Transactions occur entirely online, without traditional stores, and can be conducted through various EC platforms and social media sites. The expansion of EC also brings about a variety of payment methods, ranging from bank payments to digital currencies. However, tax management for cross-border EC transactions still faces numerous shortcomings, particularly concerning income from social media platforms like Google, Facebook, and YouTube.

### *4.3 Achievements and limitations in combating tax base erosion*

#### *4.3.1 The achieved results*

State policies against tax base erosion for FDI enterprises have been carefully studied and adjusted by the government to ensure strict control over potential risk entities causing tax base erosion while ensuring convenience for taxpayers in the declaration process dossier preparation and healthy competition. The legal framework for tax management of related-party transactions (RPT) and e-commerce (EC) activities has gradually improved, aligning with international standards and Vietnam's practical conditions. Legal provisions on tax management for RPT and EC have been strengthened, transitioning from issuance through Ministry of Finance circulars (1997-2017) to application through Government Decrees and incorporation into Tax Management Law (amended) No.

38/2019/QH14. This enhances transparency and effectiveness in implementing regulations, providing a stronger legal basis for tax management of RPT and EC enterprises.

The scope of adjustments has expanded to cover enterprises with RPT, from only applying to enterprises with RPT among themselves to encompassing cases of enterprises with RPT involving individual owners or individuals with familial relationships with the enterprise owners. Moreover, the types of related-party enterprises have broadened to include all kinds of relationships, significantly impacting the interests of related parties and tax obligations to the state. In the adjustment process, cases have been exempted from legal provisions on related-party relationships that are unsuitable in practice, causing difficulties for business operations.

International best practices in tax management for related-party enterprises have been adopted by applying transfer pricing methods based on market prices, which have been enhanced and refined through decrees such as 20/2017/NĐ-CP and 132/2020/NĐ-CP. Furthermore, other international provisions have been researched and applied, such as preventing thin capitalization, reporting cross-border profits, and determining deductible costs for specific cases. This establishes a legal framework to enhance the effectiveness of transfer pricing control and combat potential tax losses for the state budget.

Regulations have been adjusted to be compatible with Vietnam's practical conditions, creating conditions for enterprises to self-declare RPT and for tax authorities to control the tax declaration activities of related-party enterprises. Tax declaration regulations have been increasingly clarified, with specific forms tailored to Vietnam's practical conditions. This allows taxpayers to self-declare RPT, and tax authorities to check the declarations of enterprises with related-party relationships and transactions. Additionally, some related-party relationships or transactions without transfer pricing motives are exempted from declaring RPT or preparing RPT documentation to reduce administrative procedures and facilitate businesses.

State management agencies against tax base erosion have been established to ensure comprehensive and in-depth implementation of tax base erosion prevention tasks. Establishing specialized management units, such as inspection and tax management units for EC activities, within the General Department of Taxation and large Tax Departments during the 2016-2022 period is considered an important step. However, implementing this work faces difficulties in large FDI enterprises and multinational corporations due to the considerable time and resources required. To overcome this situation, transferring tax erosion prevention management activities such as inspection and management of EC activities to the Tax Inspection Unit of Tax Departments has helped reduce management overheads and administrative procedures and create conditions for businesses. This also helps tax officials better understand enterprises' developments and activities, thereby detecting and alerting early signs of tax base erosion behaviors.

Vietnam acknowledges that combating tax-base erosion requires international cooperation because most tax-base erosion behaviors involve foreign entities. Therefore, cooperation with other countries is necessary to prevent these behaviors effectively. The Vietnamese Tax Department has actively promoted international cooperation on tax and combating tax base erosion. These efforts have yielded many positive results, helping Vietnam improve its tax base erosion prevention policies through learning from the experiences of other countries and exchanging crucial information.

### *4.3.2 Limitations and Reasons*

*Regarding policies*

Firstly, despite the relatively good attention and handling of obstacles in implementing laws to combat tax base erosion, some shortcomings still have not been addressed in a timely manner. This complicates the application of rollback provisions for enterprises, especially concerning thin capital control.

Secondly, applying international standards to combat tax base erosion in Vietnam often encounters difficulties and obstacles. For instance, determining the limitation ratio in regulations on thin capitalization is not always appropriate and has sparked many controversies. Some specific provisions also require amendment and supplementation to reflect the actual situation of enterprises accurately.

Thirdly, despite revisions and amendments, the current regulations on combating tax base erosion still have some limitations that need research and improvement. Specifically, the control of thin capitalization and regulations on controlling related-party transactions (RPT) between enterprises and related individuals is unclear. Standard declaration forms for declaring RPT prices also need simplification and clarification to minimize implementation difficulties.

*Regarding the organization of management machinery*

Despite assigning tax base erosion management and prevention tasks to various ministries and functional agencies, this activity remains unsynchronized and ineffective. FDI enterprises and the country still suffer from a lack of human resources and insufficient coordination between relevant agencies. The merger of transfer pricing inspection units into inspection units under the new organizational model of the tax sector has diminished the effectiveness of this activity. Additionally, the organization and assignment of tasks are not specialized and concentrated enough, resulting in difficulties in evaluating and managing EC activities.

*Regarding the organization of operational management activities*

The database requires improvement in several areas:

Firstly, there is a lack of accuracy and consistency in declared information on related-party transactions (RPT) and business sectors. This inconsistency hampers management and inspection efforts, particularly in combating transfer pricing.

Secondly, taxpayer data are scattered, and agencies have limited linkage. This situation poses challenges in comparing internal transactions effectively.

Thirdly, the data sourced from enterprises is inadequate and does not meet future needs. Identifying fraudulent transfer pricing behaviors of related-party enterprises is difficult due to the lack of comprehensive data and a comparison basis. For risk analysis of tax base erosion behaviors, the following improvements are necessary:

- The quality of risk analysis and taxpayer identification falls short of expectations due to an incomplete database.
- Transfer pricing inspection procedures are deficient, resulting in inconsistent implementation.
- Insufficient time and resources allocated to transfer pricing inspections lead to fewer inspections and low effectiveness.
- Handling violations is challenging due to a lack of evidence, especially regarding the price database.

*Regarding international cooperation in combating tax base erosion*

The organization of implementing tax agreements remains cumbersome and ineffective:

- Nearly 20 cases of obstacles in tax agreement implementation are encountered each year, which slows down the process of solving tax management problems.
- Information exchange between the Vietnam tax authorities and other countries is delayed, inconsistent, and fails to combat tax evasion effectively.
- Cooperation in training and professional development is limited, with some training courses not tailored to Vietnam's specific conditions.
- Exchange and cooperation in international tax expertise do not meet practical requirements.
- Participation and initiatives in international tax forums are still of limited quality.

## 5 Discussion

### *5.1 Enhancing corporate income tax policies*

To fulfill the requirements of Pillar 2 BEPS and maintain the attractiveness of the investment environment, Vietnam needs to take several actions:

Firstly, it should review and adjust the system of corporate income tax (CIT) policies and investment support appropriately. This involves comprehensively examining existing policies and making necessary modifications to ensure alignment with Pillar 2 BEPS standards.

Secondly, Vietnam should retain its taxing rights over enterprises with global revenues of EUR 750 million or more. This ensures that large multinational corporations operating within its jurisdiction are subject to appropriate tax regulations and obligations.

In corporate income tax, Vietnam must conduct a thorough review and amendment of the Corporate Income Tax Law. This includes applying non-discriminatory tax policies and implementing measures to combat the erosion of tax bases, thereby safeguarding the tax system's integrity.

Regarding Pillar 2, Vietnam should research and consider implementing additional minimum tax provisions domestically. This entails studying additional provisions for minimum taxable income for enterprises that meet the consolidated annual revenue threshold of EUR 750 million, ensuring fair taxation practices.

Lastly, Vietnam needs to strengthen policy communication and gather feedback from both the scientific and business communities on the realities of Pillar 2. This will facilitate informed decision-making and ensure policies are effectively implemented to achieve the desired outcomes.

### *5.2 Improving Tax Management Law*

To enhance tax management activities, two primary adjustments need to be made in the Tax Administration Law (TAL):

Firstly, there is a need to supplement the tax investigation authority for the Tax Administration Agency (TAA). Currently, the Inspection Law does not specifically regulate the inspection timeframe regarding tax base erosion activities such as transfer pricing. This leads to ambiguity in tax management. Tax investigations need to be clearly defined in terms of targets, authority, content, scope, and deadlines for the TAA. Simultaneously, a clear distinction needs to be made between investigations by the TAA and those by the judicial authorities to ensure fairness and transparency in handling tax violations.

Secondly, it is necessary to supplement the TAL with provisions allowing the TAA to collect and use information from foreign counterparts based on international agreements. Currently, tax authorities worldwide are enhancing information exchange to combat tax evasion through transfer pricing practices. However, Vietnam does not yet have any legal provisions allowing the use of this information. Adding these provisions to the TAL will enhance the ability to address transfer pricing-related issues and ensure fairness in tax management processes.

### *5.3 Enhancing regulations related to identifying affiliated enterprises*

To refine regulations related to identifying enterprises with a controlled foreign affiliate (CFA) status, the following adjustments need to be implemented: Firstly, there is a need to expand the scope of identifying enterprises with CFA status by including other organizational forms if they generate income related to tax base erosion activities. It is proposed that specific rules for enterprises with CFA status, including legal and economic assessments, be established to ensure fairness and transparency. Secondly, there should be provisions regarding thresholds and exemptions. Clear thresholds should be defined for FDI enterprises with CFA status and exceptions for lower-risk cases. It is proposed to exempt enterprises with corporate income tax rates not lower than Vietnamese law or in less risky sectors regarding profit shifting. Thirdly, the focus should be placed on defining income from FDI enterprises with CFA status. Types of income with high risks related to tax base erosion activities must be identified, and rules for determining this income should be established. Finally, rules for allocating income among FDI enterprises and related parties must be developed. Specific steps in the income allocation process should be identified, and principles of fairness and transparency should be applied throughout this process.

### *5.4 Enhancing the legal framework on transfer pricing documentation for affiliated FDI enterprises, promoting the implementation of country-by-country reporting on transfer pricing*

Several adjustments need to be made to refine the legal framework on transfer pricing documentation for affiliated foreign-invested enterprises (FDIs) and promote the implementation of country-by-country reporting on transfer pricing.

Firstly, regulations on transfer pricing documentation should be enhanced to ensure a thorough evaluation of compliance with current transfer pricing rules. It is necessary to establish a legal framework that allows tax authorities access to the necessary information to assess transfer pricing risks and decide whether to conduct audits or examinations.

Secondly, a standardized approach to transfer pricing documentation should be applied. The OECD proposes a standardized approach consisting of three levels:

- Master file: This overviews the multinational group's business activities, including organization, business operations, intangible assets, and financial activities.
- Local file: This provides more detailed information about specific company transactions within the group, focusing on price analysis and valuation methods.
- Country-by-country reporting requires aggregated information on income allocation and economic activity indicators across tax jurisdictions.

These adjustments will provide tax authorities with the necessary information to analyze and assess transfer pricing risks effectively, ensuring compliance with the arm's length principle.

### *5.5 Reviewing and considering updating the content of bilateral tax agreements*

The proposal to review and consider updating the content of the bilateral tax agreement requires Vietnam to consider the following key factors carefully:

Double taxation risk: Vietnam needs to assess whether there is a risk of double taxation for its residents and those of the partner country before deciding to sign or amend the tax agreement. This risk is often evaluated based on the interaction between the tax systems of the two countries and the level of cross-border investment and trade.

High corporate income tax rates: It is necessary to consider whether applying high corporate income tax rates could lead to the risk of over-taxation for residents in the partner country and vice versa. This could affect cross-border trade and investment between the two countries.

Administrative support: Vietnam also needs to assess the ability and willingness of the partner country to provide administrative support related to taxation. This includes exchanging tax information and implementing other administrative support measures without signing a new tax agreement.

Content of the tax agreement: Attention should be paid to certain points in the current content of the tax agreement, such as provisions related to residency status, permanent establishment for various types of services, and tax rates for different types of income and fees.

These aspects need to be carefully considered to ensure that the tax agreement signed or amended will not create loopholes that can be exploited to avoid and evade taxes, leading to erosion of the tax system.

### *5.6 Enhancing participation in multilateral tax agreements*

Strengthening participation in multilateral tax agreements is a crucial step in addressing issues of tax erosion under the OECD's BEPS Action Plan. This requires deep cooperation among countries through a multilateral tool to prevent tax erosion and safeguard tax sovereignty. Participating in multilateral agreements also reflects the inevitable trend of tax integration and the need for tax system reform in Vietnam by 2030.

Vietnam's participation content must focus on ensuring national interests, implementing the minimum standards of BEPS actions, and aligning with domestic development levels. A specific participation plan needs to be developed to achieve this, including drafting government guidance documents and enhancing outreach efforts to support tax authorities and taxpayers in conveniently applying the agreement.

Furthermore, it is necessary to study additional arbitration mechanisms to resolve disputes, evaluate Vietnam's reservations in the agreement, and negotiate agreements with ASEAN countries and other strategic partners. Multilateral and bilateral tax agreements will play important roles in expanding and upgrading the international tax system while sharing benefits for all parties involved.

### *5.7 Strengthening control over the declaration of related-party transactions by FDI enterprises*

Several measures need to be implemented to enhance control over the declaration of related-party transactions of foreign-invested enterprises (FDIs) and ensure effectiveness in combating base erosion and profit shifting (BEPS) tax management. Firstly, it is necessary to review, compile a list, and closely monitor FDIs with related-party relationships to ensure accurate and complete disclosure of information. Measures such as urging, reminding, and imposing penalties on violators should be implemented to enforce compliance. Secondly, managing and monitoring the declaration of related-party transactions of FDIs is essential according to geographical areas and industries. This approach will help grasp and accumulate management experience, leading to more effective control over related-party transactions. Thirdly, it is crucial to review audited financial reports to detect inaccuracies in the declaration of related-party transactions. Timely corrective measures should be taken to rectify any discrepancies found.

Additionally, organizing tax filing assessments based on information from various sources is essential to evaluate compliance with related-party transaction disclosure regulations. This will ensure that FDIs adhere to the required reporting standards. Furthermore, close coordination with functional agencies such as inspection, examination, and debt management is necessary. This collaboration will enable the gathering of information and ensure the proper handling of FDIs per regulations, enhancing overall control over related-party transactions.

### *5.8 Enhancing international cooperation in taxation*

To enhance international cooperation in tax matters, Vietnam may consider participating in several agreements:

Firstly, the Multilateral Administrative Assistance Agreement (MAA) allows for the exchange of tax information between tax authorities of different jurisdictions. Participating in this agreement would facilitate sharing crucial tax-related information, thereby improving transparency and compliance. Secondly, Vietnam could enter into Bilateral Tax Information Exchange Agreements (TIEAs). These agreements enable the exchange of tax information between jurisdictions upon request, further enhancing cooperation and combating tax evasion and avoidance. Thirdly, Vietnam may consider participating in Common Reporting Standard Competent Authority

Agreements/Memoranda of Understanding (CRS CAA/MoUs). These bilateral agreements facilitate the exchange of information according to the CRS standard, promoting international tax transparency and compliance. Lastly, Vietnam could engage in Country-by-Country Competent Authority Agreements/Memoranda of Understanding (CbC CAA/MoUs). These agreements allow tax authorities to exchange Country-by-Country reports, providing valuable insights into the global operations of multinational enterprises and ensuring fair taxation. Participating in these agreements would demonstrate Vietnam's commitment to international tax cooperation and help create a more transparent and equitable global tax environment.

## 6 Conclusion

In the current era of globalization, the erosion of tax bases and profit shifting have become urgent issues that attract the attention of both nations and international organizations. The proliferation of these practices, including transfer pricing, e-commerce, thin capitalization, and tax haven jurisdictions, is causing serious consequences for the global tax system. In this context, Vietnam and other countries are striving to implement measures to combat base erosion and profit shifting (BEPS) to create a more transparent and equitable business and investment environment.

The results of this study have highlighted several important points. Firstly, the research analyzed and clarified theoretical issues related to BEPS, particularly emphasizing the content and criteria for assessing BEPS. Secondly, the authors studied and drew lessons from the experiences of BEPS prevention in other countries worldwide, providing valuable insights for Vietnam. Thirdly, through evaluating the BEPS situation in Vietnam, the study identified successes, limitations, and the reasons behind these limitations. Finally, the research proposed specific solutions to enhance BEPS prevention in Vietnam in the future.

Despite efforts and endeavors in the research process, there are still limitations and shortcomings due to the complexity and broad scope of the topic. The authors look forward to receiving contributions from the academic community and managers to continue developing and improving this research in the future.

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