**To:** Ha Phuong Dang - Audit Partner

**From:** Nhung Thi Hong Nguyen - Associate Tax Partner

The purpose of this memorandum is to summarize the procedures undertaken by us with respect to the tax review for the above-mentioned Bank for the current financial year.

1. **Scope**

Our procedures consisted of the following:

1. Our scope of tax review includes the following kinds of taxes:

* Corporate Income Tax (CIT)
* Value Added Tax (VAT)
* Foreign Contractor Tax (FCT)
* Personal Income Tax (PIT)

During the review of the above taxes, if there are any risks in relation to other kinds of taxes other than the above, we will highlight to audit team for further communication with the client.

1. Reviewed the audit tax working papers to understand significant tax-related issues identified by the audit team, including:

* Income tax provision calculation prepared by the management and reviewed by the auditor;
* Comment/assess on the approaches which audit team is applying to determine material temporary difference (e.g., which items should be classified as temporary difference; correct tax rate should be applied to calculate deferred tax.

1. Reviewed correspondences between the Bank and tax authorities (if any); and
2. Attend TPE and PIE where we have discussed on tax matters with the audit engagement team.

We have assessed the potential effects of significant tax exposure items identified by the audit professional and have discussed the significant matters subject to materiality thresholds and tax exposure items as further explained in Section 2 of this Memorandum with the partner in charge of the engagement and key executives for this engagement.

The scope of our work does not include the re-calculation of deferred tax and review the income tax presentation and disclosures in the financial statements as such procedures will be performed by audit team.

1. **Materiality**

We have conducted our procedures for the individual entities listed below and determined the materiality threshold applied for each individual entity is as below, having regard to the following “tax scope” on a pre-tax basis when considering whether any adjustments are necessary.

|  |  |
| --- | --- |
| **Entity** | **Materiality threshold (mVND)** |
| VCB | TE: 934,194 mVND  SAD: 93,419 mVND |
|  |  |

1. **Summary of Significant Tax Matters**

Based on our review and discussion with the audit professional, we would like to highlight the Bank’s significant tax matters or potential tax issues as below:

**Corporate Income Tax**

**Non-deductible expenses for VAT output of gift**

During the period, the bank issued VAT invoices for gifts to its employees and customers. Such output VAT amount is accounted as the expense account under the accounting perspective.

GDT and some local tax departments have recently issued some ruling to provide the guidance that, if the Company incurs goods for promotion, gift, internal uses, donation, the output VAT payables under the credit method is not deductible for CIT purpose which is pursuant to Point 5, Article 1, Law 32 on CIT.

Therefore, there is a risk that the VAT of the invoice for such aforementioned transactions recorded as expenses of the Bank will be non-deductible when determining CIT liabilities.

*Audit response:*

We obtained General ledger of accounts related to gift expense and estimated VAT output of gift to be approximately 55.6 VNDb. This amount is lower than SAD so it is immaterial.

After estimating the impact of this non-deductible expenses for VAT output of gift, we informed VCB for them to review and make the final settlement for 2022 and informed the head office department to guide the implementation for the whole system by 2023

**VAT on L/C fee**

According to a recent official letter (1606/TCT-DNL dated 22 Apr 2020) of the General Department of Taxation (GDT), L/C services do not fall into the list of finance & credit services that are subject to VAT exemption but in fact, L/C is the provision of payment services per the Law on Credit Institutions. This means the GDT holds the view that L/C services should be subject to VAT 10%.

Notwithstanding this, the SBV has raised an official letter to the MoF (2032/NHNN-TD dated 29/03/2021) explaining that L/C activities are mixed of payment services and credit extension services and requesting the MoF to remain the current VAT treatment on L/C activities (i.e. VAT exemption). Even that, from a tax perspective, technically in case any services are mixed of unseparated portions, the highest tax rate normally applies.

The audit team should inform the client of this matter. If necessary, the Bank might consider submitting the petition letter to further clarify with the tax authority.

*Audit response:*

* In the market, there is inconsistence in applying VAT for LC contract. Some banks apply VAT at 10% but some consider LC as credit services under VAT law, hence treat LC as VAT exempt services like VCB.
* It is also negotiating area with pending responses from MOF/Tax authority for OL by VCB and the SBV on this matter. GDT & MOF need to give clearer guidelines for the application of VAT to fees related to LC, in which it is necessary to clearly separate:
* any fees related to LC services in which the Bank acts as an issuer/confirmer which the Bank has an irrevocable commitment to pay the beneficiary, and
* any fees related to LC services in which the Bank only acts as an informer...no commitment/guarantee for payment...
* In the view that the 2021 FS being audited by KPMG is correct and the restatement made by VCB to 2022 FSs based on the SAV's report is merely to comply with the Law on State Auditing rather than an action to correct significant deficiency in the Bank’s FS preparation, **EY team did not agree** with the VCB’s restatement and considered this to be an uncorrected SAD in OB of FSs 2022 with the amount of 83,764 VNDm (<TE).
* In 2022, VCB has restate the OB in the 2022 FSs but they did not calculate and adjust similarly for the figures for 2022. We estimated the maximum impact of this VAT payable amount at 10% x total LC fee (1,133 VNDb) equal to 113 VNDb which is much less than TE (467 bVND).

In conclusion, we agree with VCB that they will make adjustments when there are specific instructions on the application of vat rate for each type of fee for LC

**Potential non-creditable VAT input**

According to Article 1 Decree 15/2022/ND-CP dated 1st February 2022, some type of goods and services from February 1, 2022 to the end of December 31, 2022 which are specified in this clause shall be eligible for 20% reduction in VAT rates. In case, the Company purchased and received the VAT invoice at an unreduced rate (i.e., at the rate of 10% VAT) for the goods and services which are qualified for VAT reduction, the Company shall not allow to fully deduct the VAT amount and need contact to the supplier for revising the VAT rate of such invoice in line Article 1 Decree 15/2022/ND-CP. The audit team should inform the client to identify any potential VAT risk.

*Audit response:*

During the audit, we became aware of this issue and informed VCB

VCB's response in 2022, when the Decree was issued, the head office made an official dispatch and sent it to the branches to guide the implementation of Decree 15/2022/ND-CP. In addition, during the first period when the Decree came into effect, each branch reviewed these costs, for invoices with incorrect tax rates, VCB has excluded them when declaring VAT.

**Other notes**

Since the transactions of the commercial bank may be numerous, among which there might be potentially non-deductible expenses for not being properly supported by documents or not related to business of the Bank, exhaustive checking should be performed to identify potential items. However, as confirmed by the audit team, sample checking is performed based on materiality threshold and hence no further non-deductible expenses are identified. Kindly please consider broadening the checking scope as well as carefully scanning the General ledger expenses.

Of note, the tax authorities are now increasingly paying more attention to reviewing the method of making provisions for credit loss at the Bank. Especially, they are focused on examine some aspects such as the basic to determine the loan groups; the reliabilities of the valuation of the collateral; or the supporting documents when calculating the specific provisions; etc. The audit team should inform the client to carefully review and identify any potential non-deductible expenses related such items.

*Audit response:*

Sample selection was based not only on the materiality threshold but also on risk. We carefully reviewed the nature of transactions in each expense account via description, including the transactions with a higher risk of being non-deductible expenses. In addition, we considered last year finding of State audit and found that VCB was strictly followed for year end 2022. Therefore, we appreciate that no further testing in GA expenses account required.

VCB is aware of this problem and they have reviewed the backup customers not according to the decision in Circular 11/2021/TT-NHNN and excluded when calculating tax.

**Transfer pricing issues:**

Vietnam’s transfer pricing rules require enterprises to disclose transactions with related parties on annual basis, by submitting Transfer Pricing Disclosure Form (“TPF”) together with annual CIT returns. Pursuant to guidance on Decree 132/2020/ND-CP, in case the company only engaged in a related-party transaction with an entity who must pay corporate income tax within the territory of Vietnam, is subject to the same corporate income tax rate as applied to the Company, and where neither of them is not offered the corporate income tax incentive within a specified tax period, the company shall be exempted to disclose Section III and IV in Annex 01 but shall be required to provide bases for such exemption in Section I, II included in Annex 01.

The Bank should carefully review the requirements as well as the conditions for exemption above to comply with TP regulations

In addition, we understand that the Bank incurred some transaction with other related parties (such as purchasing goods, receiving the support amount, etc.) Based on our practice observation, Tax authority has strictly challenged and pay attention to intercompany transactions. Therefore, Audit team should inform the Bank to well prepare sufficient supporting documents and proper explanation to prove and support its position (if requested).

*Audit response:*

We discussed this matter with VCB and VCB is aware of this risk.

1. **Conclusion**

Except from the above findings, we are not aware of significant tax issues exceeding the threshold of materiality. The current year’s tax position is reasonable in the context of the current tax regulations. Audit team should refer to our summary to pay attention

Audit team: we have discussed with tax team and reply tax comments. Above tax risks are communicated to the client and brought into management representative letter. No further issue noted.

**Prepared By:**

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Tax Manager (Date)

**Reviewed By:**

Nhung Nguyen 20.03.2023

Associate Tax Partner (Date)

**Reviewed By:**

Ha Phuong Dang 20.03.2023

Audit Partner (Date)