

Hanoi Department of Taxation

Hanoi, August 2nd 2018

No. 54153/CT-TTHT Regarding Transfer Pricing Documentation

Dear Esco Vietnam Co., Ltd

F7, No 8, lane 15 Trung Kinh street, Trung Kinh ward, Cau Giay district, Hanoi

Tax code: 0105641089

In order to answer questions in the document dated May 9th 2018 of Esco Vietnam Co., Ltd (hereinafter referred to as “the Company”) regarding the taxation regulations, after getting opinions from the General Department of Taxation Vietnam, Hanoi Department of Taxation would like to suggest the followings:

- Pursuant to Decree No 20/2017/ND-CP dated February 24th 2017 issued by the Government to prescribe tax administration for enterprises engaged in transfer pricing:

- ❖ Article 2 regulates the Subjects of application:

- “1. Commodity or service production and business entities (hereinafter referred to as taxpayers) that are entities paying corporate income tax according to the declaration method and performing transactions with related parties under the provisions of Article 5 hereof.”

- ❖ Article 5 regulates the Related parties:

- “1. Related parties are parties having relationships where:

- a) A party participates directly or indirectly in the management, control or equity of the other, or puts investment in the other;

- b) Parties participate directly or indirectly in the common management, control, or the capital of or put investment in, other parties.

- ...”

- ❖ Article 11 regulates cases in which a taxpayer shall be exempted from preparing, declaring the transfer pricing documentation:

“2. The taxpayer shall be responsible for declaration of transfer pricing information according to the Form No.01 given in the Appendix to this Decree but shall be exempted from the transfer pricing documentation in the following circumstances:

a) Taxpayer is engaged in the transfer pricing but the total revenue arising within a specified tax period is less than VND 50 billion and the total value of the related-party transactions arising within a specified tax period does not exceed VND 30 billion;

...”

- Pursuant to the document No. 2900/TCT-TT dated July 26th 2018 issued by the General Department of Taxation Vietnam regarding the revenue which can be based on to determine whether the taxpayer shall be exempted from the transfer pricing documentation obligation.

According to aforementioned regulations and guidance:

In case the Company is the subject of corporate income tax payment following the declaration method and

- occurs transactions with related parties in accordance with the regulations stated in the Article 5 Decree 20/2017/ND-CP dated February 24th 2017 issued by the Government, and
- has total revenue in the tax period (stated at the Consolidated Financial Statements of the Company and its branches) which is less than 50 billion VND, but
- the total value of all related-party transactions occurred in the tax period (stated at the Consolidated Financial Statements of the Company and its branches) is more than 30 billion VND, then the Company is not the subject of transfer pricing documentation exemption regulated at the Section 2a, Article 11, Decree 20/2017/ND-CP mentioned above.

The Company’s branch is the independent branch with its own accounting systems which has the revenue of less than 50 billion VND and the total value of all related-party transactions is less than 30 billion VND, the Company’s branch is the subject of transfer pricing documentation exemption regulated at the Section 2a, Article 11, Decree 20/2017/ND-CP.

Esco Vietnam Co., Ltd is suggested to follow the regulations based on the Company’s real situations. While executing the regulations, if the Company has any questions, please contact the Tax Inspection Department 1 – Hanoi Department of Taxation for detailed guidance.