

# AN OUTLINE OF VIETNAM'S DTA PRACTICE AND ISSUES

**Nguyen Van Phung – Director General  
Large Taxpayer, General Department of Taxation**





# CONTENTS



- 1 INTRODUCTION**
- 2 DTA POLCIY**
- 3 DTA PRACTICE AND ISSUES**



# 1. INTRODUCTION



- VIETNAM'S DTA SYSTEM
  - ✦ 71 DTAs (27/30 OECD & 9/10 ASEAN)
  - ✦ The first DTA (Australia 13 April 1992)
  - ✦ Before 1995: OECD Model with some modifications
  - ✦ Since 1996 until now: UN Model
  - ✦ Recently Vietnam Model



# 1. INTRODUCTION



- \* Re-negotiation: No
- Amendment: Yet (Singapore, Belgium, HongKong, India)



## 2. VIETNAM'S DTA POLICY



1. DTA negotiation scenario with each counterpart approved by GDT
2. Spontaneous Exchange of Information (EOI)



## 2. VIETNAM' S DTA POLICY



1. Before 1995  
OECD Model with some modifications (passive income, tax sparing)
2. Since 1996 until now  
UN Model (DTA negotiation)
3. Recently Vietnam Model based on UN (technical fees, PE, international traffic, tax sparing,...)



## 3. VIETNAM'S DTA PRACTICE

- LEGAL FRAMEWORK
- IMPLEMENTATION ORGANIZATION
- PRACTICAL ISSUES



## 3. VIETNAM'S DTA PRACTICE



### ➤ LEGAL FRAMEWORK

- DTAs (71)
- Law on signature and accession to international convention
- Law on Tax Administration
- Circulars 205/2013/TT-BTC





## 3. VIETNAM'S DTA PRACTICE



### IMPLEMENTATION ORGANIZATION

- Before July 2007:

Centralizing at GDT level

Official assessment

- Since July 2007 until now:

De-centralizing to tax provincial level

Self-assessment



## 3. VIETNAM'S DTA PRACTICE

### ➤ PRACTICAL ISSUES

#### 1. PE determination

- The interpretation of the permanent character of business
- The relation between the six month period of service PE and the three basic conditions for the existence of a PE
- The income attribution to a PE



## PRACTICE ISSUES (Cont.,)

2. The interpretation of the term “operation” in international transport
3. The benefit owner with respect to interest on loans given to or guaranteed by government
4. The loss of taxing right of source with respect to the income from alienation of shares in FDI enterprises
5. Distinguishing between royalties & service

**Thank you**

