

Reforming Advance Pricing Agreements in Vietnam: Implications for Tax Governance Efficiency

Le Thi Thao¹

¹University of Law, Hue University
No 20 Vo Van Kiet, Hue City, Vietnam
<https://orcid.org/0000-0003-0602-3433>
ltthao@hueuni.edu.vn

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ABSTRACT

Advance Pricing Agreements (APAs) have increasingly been adopted as a key instrument to reduce transfer pricing disputes and enhance certainty in cross-border taxation. While APA systems are well established in many OECD jurisdictions, their institutional design and practical implementation in emerging economies such as Vietnam remain underdeveloped and uneven. Despite a growing body of literature on APAs, limited attention has been paid to institutionally grounded analyses of APA reforms in emerging economies, particularly in relation to their implications for tax governance.

This article examines the recent reform of Vietnam's APA framework under Decree No. 122/2025/NĐ-CP and evaluates its implications for tax governance efficiency in the context of the global economy. The study adopts a qualitative doctrinal legal approach, combined with comparative analysis against OECD standards, drawing on both primary legal sources and secondary literature.

The findings suggest that the reform reflects a shift towards a more cooperative and administratively flexible model of tax governance, particularly through the reallocation of decision-making authority and procedural adjustments in bilateral and multilateral APAs. However, its effectiveness remains constrained by challenges relating to administrative capacity, inter-agency coordination, and institutional accountability.

This study contributes to the literature by linking legal reform with governance performance in emerging tax systems and highlights the importance of strengthening institutional capacity and transparency to ensure the effective operation of APA mechanisms.

Keywords: Advance Pricing Agreements, Tax Governance, Vietnam.

I. INTRODUCTION

In recent decades, growing economic integration across borders has reshaped the way international taxation operates. Multinational enterprises (MNEs) now structure their activities through increasingly complex production and distribution networks that span multiple countries, with frequent transactions taking place between related entities. This shift has made it more difficult for tax authorities to determine where profits should be taxed. In particular, applying the arm's length principle in practice has become more challenging as business structures grow more intricate. As a result, managing transfer pricing is no longer a technical issue alone, but has become a key concern for tax administrations and an important topic in broader tax policy discussions¹.

Disputes over transfer pricing have become one of the most common sources of tension between MNEs and tax authorities. Because transactions between related parties are based on internal pricing decisions rather than prices formed in the open market, tax authorities often face difficulties in assessing whether these arrangements reflect fair market conditions. In practice, this assessment depends on economic reasoning and comparisons with similar transactions, which are not always straightforward. It is therefore not surprising that differences in understanding and interpretation arise, both between taxpayers and tax authorities, and among tax authorities in different countries. These differences can lead to lengthy disputes, the risk of the same income being taxed more than once, and higher compliance costs for businesses². In response, both international organisations and national governments have made efforts to develop clearer rules and more workable mechanisms, with the aim of providing greater certainty for taxpayers while maintaining fairness in tax systems.

One way to address these challenges has been the introduction of Advance Pricing Agreements (APAs). In simple terms, an APA is an arrangement between a taxpayer and one or more tax authorities in which they agree in advance on how transfer pricing will be determined for certain transactions between related parties over a specific period of

¹ Eden, Lorraine. *Transfer Pricing and Multinational Enterprises*. Oxford UP, 2019.

² OECD. *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. OECD Publishing, 2022.

time. By setting out these arrangements before the transactions take place, APAs help reduce uncertainty and lower the risk of disputes³.

In current tax practice, APAs are increasingly linked to more cooperative approaches between tax authorities and taxpayers, based on transparency and early engagement. Instead of relying mainly on audits and disputes after the fact, these approaches aim to address potential tax issues at an earlier stage through dialogue and agreement. As noted by the OECD, such arrangements can improve voluntary compliance and make tax administration more efficient when there is clear guidance and mutual trust⁴. From this perspective, APAs are not only technical tools for handling transfer pricing, but also a means of supporting a more cooperative way of managing tax relations.

While many developed economies have operated APA programmes for several decades and accumulated substantial administrative experience, the adoption of such mechanisms in emerging economies has occurred more recently. In these contexts, the implementation of APA regimes often takes place within evolving institutional environments where legal frameworks, administrative capacity, and organisational coordination are still developing. Consequently, the effectiveness of APAs in emerging economies depends not only on the formal regulatory provisions governing their operation but also on the institutional design of tax administrations responsible for implementing them.⁵

Despite a growing body of literature on APAs, most studies focus on dispute resolution and regulatory alignment in developed jurisdictions, with relatively limited attention to institutionally grounded analyses in emerging economies. In particular, there remains a lack of systematic research examining how APA reforms influence tax governance efficiency, including administrative capacity, accountability, and coordination. This gap is especially evident in the Vietnamese context, where empirical and doctrinal analyses remain limited.

Vietnam represents a particularly relevant case for examining these dynamics. Over the past two decades, Vietnam has experienced rapid economic growth and increasing

³ Organisation for Economic Co-operation and Development. *Advance Pricing Arrangements: Best Practices*. OECD Publishing, 2001.

⁴ OECD. *Co-operative Compliance: A Framework – From Enhanced Relationship to Co-operative Compliance*. OECD Publishing, 2013.

⁵ International Monetary Fund. *Tax Administration Diagnostic Assessment Tool (TADAT)*. IMF, 2019.

integration into the global economy through trade liberalisation, foreign direct investment, and participation in international production networks. As multinational enterprises have expanded their operations within the country, issues relating to transfer pricing and profit shifting have attracted greater attention from policymakers and tax authorities. In response, Vietnam has gradually strengthened its transfer pricing regulatory framework in order to align domestic tax rules with international standards and to safeguard the national tax base.

The legal basis for Advance Pricing Agreements in Vietnam was formally established under the Law on Tax Administration 2019 (Law No. 38/2019/QH14), which introduced provisions enabling taxpayers and tax authorities to negotiate advance agreements on transfer pricing methodologies. Subsequent implementing regulations, including Decree No. 126/2020/NĐ-CP, provided further procedural guidance for the application, evaluation, and approval of APAs within the Vietnamese tax administration.⁶ These developments formed part of broader reforms aimed at modernising tax governance and improving the predictability of the tax system for investors.

Despite the establishment of this legal framework, practical implementation of the APA regime has faced several institutional challenges. Administrative processes initially relied on a highly centralised review structure within the General Department of Taxation (GDT), which was responsible for conducting economic analysis and approving APA applications. While centralisation was intended to ensure consistent interpretation of transfer pricing regulations, it also created procedural congestion and extended review timelines, particularly in complex cases involving cross-border transactions. Similar implementation constraints have been identified in other emerging tax administrations where specialised expertise and institutional coordination remain limited.⁷

In response to these operational challenges, the Vietnamese government adopted Decree No. 122/2025/NĐ-CP, which introduces reforms to the institutional structure of the APA regime. The decree redistributes certain responsibilities within the tax administration, allowing specialised units at different administrative levels to participate more actively in the evaluation process while maintaining central oversight. These

⁶ National Assembly of Vietnam. *Law on Tax Administration (Law No. 38/2019/QH14)*. 2019; Government of Vietnam. *Decree No. 126/2020/NĐ-CP Guiding the Law on Tax Administration*. 2020.

⁷ International Monetary Fund. *Tax Administration Diagnostic Assessment Tool (TADAT)*. IMF, 2019.

institutional adjustments are intended to improve administrative efficiency, enhance procedural clarity, and strengthen the role of APAs as preventive instruments within Vietnam's transfer pricing governance framework.

Despite these developments, academic discussion on Vietnam's APA regime is still quite limited. Most existing studies on transfer pricing in emerging economies tend to focus on aligning domestic rules with international standards and on anti-avoidance efforts linked to the BEPS initiative. Less attention has been given to how APA systems are actually organised and how institutional design affects their performance in practice.

Against this background, this article examines how Vietnam's APA framework has developed and how recent reforms may shape its role in tax administration. It focuses on three main questions: how Vietnam's APA rules have evolved in the broader context of international tax reforms; what changes were introduced by Decree No. 122/2025/NĐ-CP, especially in terms of administrative responsibilities; and how these changes may affect the effectiveness of APAs in preventing transfer pricing disputes.

This study adopts a qualitative doctrinal legal approach combined with comparative analysis. The analysis is based on primary legal sources, including the Law on Tax Administration 2019 and Decree No. 122/2025/NĐ-CP, as well as secondary materials such as OECD Transfer Pricing Guidelines and recent academic literature. It further incorporates an institutional perspective to assess how organisational structures and decision-making processes influence the effectiveness of APA implementation.

The discussion demonstrates that while Vietnam's APA reform reflects a shift towards a more cooperative and flexible model of tax administration, its effectiveness remains dependent on key governance factors, including administrative capacity, inter-agency coordination, and accountability mechanisms. In particular, the redistribution of decision-making authority may enhance efficiency but also introduces potential governance risks that require appropriate safeguards.

By addressing these questions, the article contributes to ongoing discussions on the implementation of cooperative compliance mechanisms in developing tax administrations. It argues that the effectiveness of APA programmes depends not only on regulatory alignment with international standards but also on institutional factors such as administrative capacity, procedural design, and organisational coordination within tax authorities. The Vietnamese experience therefore provides useful insights into the broader

challenges faced by emerging economies seeking to strengthen tax certainty while maintaining effective oversight of cross-border transactions.

This study combines legal analysis with observations from practice. By looking at both the written rules and how they are applied, it aims to capture not only the formal structure of the law but also the way it operates in reality.⁸

First, the study examines the legal framework governing APAs in Vietnam through a close reading of relevant laws and regulations. It focuses on how the rules are structured, how they are interpreted, and how they fit together as a system. This approach is commonly used in legal research to clarify the meaning of legal provisions and to assess how a regulatory framework operates within a particular institutional setting.⁹ The study therefore analyses key legal sources including the Law on Tax Administration, implementing regulations on transfer pricing, and the institutional reforms introduced under Decree No. 122/2025/NĐ-CP. Through a statutory and conceptual approach, the research identifies the legal architecture of the APA regime, the procedural stages of APA negotiations, and the distribution of decision-making authority within the tax administration.

Second, the article incorporates empirical observations regarding the operation of the APA mechanism in practice. Empirical legal research examines how legal rules function within institutional contexts and evaluates whether regulatory frameworks operate effectively when implemented. This approach complements doctrinal analysis by focusing on the practical application of legal norms and the behaviour of institutions responsible for enforcing them.¹⁰ The empirical component of this study draws on policy reports, administrative guidance, publicly available information issued by tax authorities, and secondary analyses concerning transfer pricing enforcement. These materials provide insight into the practical challenges encountered by tax authorities and multinational enterprises in the negotiation and implementation of APAs, particularly in emerging tax administrations where institutional capacity and administrative coordination play a critical role in the effectiveness of cooperative compliance mechanisms.

⁸ Perrine Simon et al., *Guidelines on Academic Legal Research Methodology* (Inter-University Cooperation Project Laos–Luxembourg, University of Luxembourg, 2022).

⁹ Simon, Perrine, et al. *Guidelines on Academic Legal Research Methodology*. University of Luxembourg, 2022, pp. 9–13.

¹⁰ Epstein, Lee, and Andrew D. Martin. *An Introduction to Empirical Legal Research*. Oxford UP, 2014, pp. 2–8.

The analysis focuses on three key aspects that influence how the APA system works in practice. First, it looks at how decision-making powers are distributed within the tax administration. Second, it considers whether there is enough specialised expertise to deal with complex transfer pricing issues. Third, it examines how procedures are organised, especially the coordination needed to ensure consistency and transparency during the APA process.

By combining legal analysis with observations from practice, the study takes a broader view of how rules and administrative realities interact. This helps explain how the design of the system affects the way transfer pricing is managed in practice.

II. DISCUSSION

1. Evolution of Vietnam's APA Legal Framework

Vietnam introduced APA mechanism as part of a broader effort to improve transfer pricing control and modernise tax administration in the context of growing cross-border economic activity. The legal basis for this mechanism was first set out in the Law on Tax Administration 2019 (Law No. 38/2019/QH14), which allows taxpayers and tax authorities to reach prior agreement on how transfer pricing should be determined for related-party transactions.¹¹ The details of how this system operates were later clarified in implementing regulations, most notably Decree No. 126/2020/NĐ-CP. This decree sets out the procedures for submitting, reviewing, and approving APA applications.¹² Together, these instruments form the core legal infrastructure through which Vietnam has sought to incorporate preventive transfer pricing mechanisms into its domestic tax administration system.

The introduction of APAs in Vietnam can be seen as part of a wider shift in the way tax systems are managed globally. Over the past few decades, many tax authorities have moved toward preventive approaches that aim to deal with transfer pricing issues before they turn into disputes.

¹¹ National Assembly of Vietnam. *Law on Tax Administration (Law No. 38/2019/QH14)*. 2019.

¹² Government of Vietnam. *Decree No. 126/2020/NĐ-CP Guiding the Law on Tax Administration*. 2020. <https://english.luatvietnam.vn/decree-no-126-2020-nd-cp-dated-october-19-2020-of-the-government-191542-doc1.html>

In this context, and in line with the OECD approach, APAs are often seen as a way to strengthen cooperation between taxpayers and tax authorities. Instead of dealing with issues only after audits or disputes arise, both sides can agree in advance on how transfer pricing will be applied.¹³ By clarifying the pricing approach applicable to controlled transactions in advance, APAs are intended to reduce litigation risks, prevent instances of double taxation, and enhance predictability in international tax planning for multinational enterprises.

Under Vietnamese tax law, an APA is a written agreement between the tax authority and the taxpayer, and in some cases also involving foreign tax authorities, which sets out how transfer pricing will be determined for related-party transactions over a certain period. A key feature is that this agreement is reached before the tax return is filed, allowing taxpayers to have greater certainty about how their future transactions will be treated for tax purposes. This preventive feature distinguishes APAs from traditional transfer pricing enforcement mechanisms, which typically rely on ex post audits and subsequent dispute resolution procedures. By shifting the regulatory focus toward advance negotiation and risk management, the APA mechanism represents a significant evolution in the governance of international taxation.

The adoption of the APA mechanism in Vietnam therefore reflects a broader global trend toward cooperative compliance in tax administration. Instead of relying exclusively on post-transaction audits and litigation, tax authorities increasingly seek to manage transfer pricing risks through instruments that allow taxpayers and regulators to agree in advance on acceptable pricing methodologies. Within this framework, APAs serve not only as technical tools for transfer pricing regulation but also as institutional mechanisms that promote dialogue and cooperation between tax administrations and multinational enterprises.

In Vietnam, the APA regime is primarily designed to apply to enterprises engaged in related-party transactions, particularly multinational enterprises operating across multiple jurisdictions. Through the APA mechanism, the tax authority and the taxpayer

¹³ OECD. *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. OECD Publishing, 2022. <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>;

De Simone, Lisa, Richard Sansing, and Jacob Seidman. "When Are Enhanced Relationship Tax Compliance Programs Mutually Beneficial?" *The Accounting Review*, 2013.

negotiate and agree in advance on the appropriate transfer pricing method applicable to specific transactions or categories of transactions. This arrangement significantly reduces the likelihood of subsequent tax disputes and provides greater certainty regarding the tax consequences of complex cross-border corporate arrangements.

At the early stage, Vietnam's APA system was designed in a highly centralised way. Most of the key decisions, including the review and approval of applications, were handled at the General Department of Taxation under the Ministry of Finance. This centralised approach aimed to ensure that complex transfer pricing rules were applied consistently and that agreements with potential budget impacts were carefully controlled. In many developing tax systems, such an arrangement is often seen as necessary at the beginning, as it helps build specialised expertise and maintain a more uniform application of the rules.¹⁴

However, this centralised structure also created some practical difficulties. As foreign investment grew and Vietnam became more integrated into global production networks, both the number and complexity of related-party transactions increased. This, in turn, led to a greater need for tools like APAs to prevent disputes.

In practice, the handling of APA applications has often been time-consuming, with multiple stages of internal review and lengthy negotiations. Delays tend to be more noticeable in complex cases, especially where detailed economic analysis is required or where coordination with foreign tax authorities is involved under bilateral tax agreements.¹⁵

These implementation challenges illustrate a broader tension frequently observed in international tax administration: the gap between normative regulatory design and institutional capacity. While Vietnam's legal framework formally establishes procedures for APA negotiation and approval, the effective functioning of the system depends heavily on administrative resources, specialised transfer pricing expertise, and coordination mechanisms within the tax administration. Similar institutional constraints

World Bank. *Transfer Pricing and Developing Economies: A Handbook for Policy Makers and Practitioners*. World Bank, 2016. <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/230331483627135642>

¹⁵ Ernst & Young. "OECD Holds Tax Certainty Day, Presenting MAP and APA Statistics and Addressing Dispute Prevention and Resolution Developments." 2025. <https://globaltaxnews.ey.com/news/2025-2219-oecd-holds-tax-certainty-day-presenting-map-and-apa-statistics-and-addressing-dispute-prevention-and-resolution-developments>

have been documented in other developing tax systems, where highly centralised approval procedures may inadvertently create administrative bottlenecks during the early stages of implementing sophisticated international tax instruments.¹⁶

Consequently, the evolution of Vietnam's APA framework can be understood as part of a broader process through which developing tax administrations gradually adapt cooperative compliance mechanisms to domestic institutional conditions while simultaneously aligning their regulatory practices with emerging international standards in tax governance. Rather than representing a static regulatory arrangement, the APA regime in Vietnam continues to evolve in response to changes in the global tax environment, the increasing complexity of multinational business structures, and the institutional learning processes within the domestic tax administration.

2. Institutional Reform under Decree No. 122/2025/NĐ-CP

The adoption of Decree No. 122/2025/NĐ-CP represents a significant institutional adjustment within Vietnam's tax administration. Rather than fundamentally altering the legal basis of the APA regime, the reform primarily restructures the distribution of administrative responsibilities involved in the evaluation and approval process.

Under the earlier framework, local tax departments conducted preliminary fact-finding, yet substantive economic analysis and final decision-making authority remained concentrated at the central level. This structure ensured interpretative uniformity but contributed to congestion in the review process.

The 2025 reform introduces a tiered governance model that redistributes technical functions across different levels of the tax administration. Local tax departments now undertake initial functional and risk assessments, while specialised regional units participate in the evaluation of benchmarking methodologies and economic modelling. The GDT retains supervisory authority and final endorsement powers, particularly for bilateral and multilateral APAs involving treaty partners.

¹⁶ OECD. Tax Administration 2023: Comparative Information on OECD and Other Advanced and Emerging Economies. OECD Publishing, 2023. <https://www.oecd.org/tax/administration/tax-administration-23077727.htm>

Table 1. Administrative Features of Vietnam’s APA Framework: Pre-2025 and Post-2025 Reform

Dimension	Pre-2025 Framework	Post-2025 Reform
Approval authority	Highly centralised at General Department of Taxation	Tiered review with central endorsement
Economic analysis	Concentrated at central level	Shared with regional technical units
Procedural milestones	Formal but weakly segmented	Structured and monitored stages
Risk differentiation	Limited formal segmentation	Risk-based case classification
MAP coordination	Sequential coordination	Earlier integration with APA process
Performance monitoring	Limited transparency	Internal case tracking mechanisms

Source: Author’s compilation based on Law on Tax Administration No. 38/2019/QH14, Decree No. 126/2020/NĐ-CP, and Decree No. 122/2025/NĐ-CP.

Table 1 summarises the key administrative differences between the earlier centralised framework governing Advance Pricing Agreements (APAs) and the institutional arrangement introduced after the 2025 reform. The comparison highlights the shift from a highly centralised approval structure toward a more functionally differentiated administrative model in which responsibilities for negotiation, technical evaluation, and final approval are more clearly distributed across different levels of the tax administration.

From an institutional perspective, this restructuring reflects a model of functional decentralisation rather than complete administrative autonomy. While central authorities continue to exercise doctrinal oversight and maintain interpretative control over the application of transfer pricing rules, certain operational and technical responsibilities are partially delegated to specialised administrative units. Comparative studies in tax administration suggest that hybrid governance arrangements of this type may enhance

regulatory responsiveness and reduce administrative congestion while still preserving coherence in the interpretation of complex tax rules.¹⁷

A significant institutional development occurred with the adoption of Decree No. 122/2025/NĐ-CP, which introduced a formal decentralisation mechanism in the approval process of bilateral and multilateral APAs. Prior to the issuance of this decree, the approval of APAs involving foreign tax authorities required consultation with, and in certain cases approval by, the Prime Minister. This multi-layered administrative procedure often resulted in prolonged negotiation periods and created additional procedural uncertainty for both taxpayers and tax authorities.

The 2025 reform fundamentally modifies this institutional arrangement by delegating greater authority to the Ministry of Finance. Under Article 8 of the decree, the Minister of Finance is authorised to approve and sign the contents of bilateral or multilateral APAs negotiated with foreign tax authorities, as well as to determine the effective date of such agreements. By reallocating decision-making authority to the ministerial level, the reform seeks to streamline the approval process and shorten the time required to finalise complex international tax agreements.

In addition to reallocating formal approval authority, the decree also clarifies the procedural responsibilities of the tax administration. The tax authority—primarily through specialised units within the General Department of Taxation—is responsible for negotiating the APA with the taxpayer and the relevant foreign competent authorities, conducting the necessary economic and transfer pricing analyses, and preparing the negotiation dossier submitted for ministerial approval. By setting out these roles more clearly, the reform aims to improve coordination between the technical work and the final decision-making process.

From a governance perspective, the reform appears to strike a balance between efficiency and oversight. Reducing layers of approval may help speed up procedures and make it easier to engage with foreign tax authorities in a timely manner. On the other hand, the concentration of final approval authority at the ministerial level raises broader questions concerning administrative capacity, transparency, and accountability in the management of complex transfer pricing arrangements.

¹⁷ Bird, Richard, and Eric Zolt. "Technology and Taxation in Developing Countries." *National Tax Journal*, 2008.

The reform therefore illustrates a broader challenge frequently encountered in contemporary tax governance: reconciling the need for consistent application of transfer pricing principles with the practical necessity of improving administrative efficiency. In this context, the restructuring introduced by Decree 122 can be interpreted as an attempt to modernise Vietnam's APA governance framework by reducing bureaucratic bottlenecks while maintaining sufficient central oversight to safeguard fiscal interests and regulatory coherence.

From a tax governance perspective, the institutional restructuring introduced by Decree No. 122/2025/NĐ-CP has important implications beyond procedural efficiency. First, the partial decentralisation of technical functions may reduce administrative congestion; however, it also introduces potential risks of inconsistent interpretation across different levels of the tax administration. Second, the concentration of final approval authority at the ministerial level raises questions concerning accountability and oversight, particularly in complex bilateral and multilateral APA cases. While centralised endorsement may ensure policy coherence, it may also limit procedural transparency if decision-making criteria are not clearly articulated. These governance trade-offs suggest that the effectiveness of APA reform depends not only on institutional design but also on the adequacy of safeguards ensuring consistency, transparency, and accountability in administrative practice.

3. Comparative APA Governance in OECD and Emerging Economies

The governance of Advance Pricing Agreements (APAs) has developed significantly over the past three decades as tax administrations have sought more cooperative approaches to managing transfer pricing risks.¹⁸ Originally introduced in the early 1990s in jurisdictions such as the United States and Japan, the APA mechanism has gradually become an integral component of international tax governance.¹⁹ The framework has been further consolidated through the work of the Organisation for Economic Co-operation and Development, particularly in the context of the OECD/G20

¹⁸ Eden, Lorraine. "The Arm's Length Standard and the Shifting State of International Tax Governance." *Journal of International Business Policy*, vol. 10, 2019, p. 1.

¹⁹ Markham, Michelle. *The Transfer Pricing of Intangibles*. 2nd ed., Kluwer Law International, 2012.

Base Erosion and Profit Shifting Project, which emphasises transparency, dispute prevention, and cooperative compliance in international taxation.²⁰

Within OECD jurisdictions, APAs are widely regarded as a preventive mechanism designed to reduce transfer pricing disputes before they arise.²¹ Rather than relying solely on ex post audits and litigation, tax authorities and multinational enterprises negotiate in advance the appropriate methodology for determining transfer prices in related-party transactions.²² This approach reflects a broader transformation in tax administration, shifting from adversarial enforcement models toward cooperative regulatory frameworks that prioritise risk management, certainty, and long-term compliance.²³

In many OECD countries, APA programmes tend to share some common features. A key element is the establishment of specialised units within tax administrations. These units handle the technical work, including economic analysis, reviewing transfer pricing documents, and negotiating agreements with taxpayers and foreign tax authorities. For instance, in the United States, the Internal Revenue Service operates a dedicated Advance Pricing and Mutual Agreement Program (APMA) to manage bilateral and multilateral APAs. Likewise, Japan's National Tax Agency has specialised teams responsible for APA negotiations and coordination with foreign counterparts²⁴; OECD countries often place greater emphasis on bilateral and multilateral APAs to reduce the risk of double taxation. These agreements involve coordination between tax authorities in different countries and are usually carried out under tax treaties based on the OECD Model Tax Convention on Income and on Capital.²⁵ Bilateral APAs are particularly important because they ensure that the transfer pricing methodology agreed upon in one jurisdiction will also be accepted by the tax authority of the counterparty jurisdiction. As a result, they provide greater certainty for multinational enterprises engaged in cross-border transactions; OECD APA programmes generally operate within a transparent procedural framework that includes pre-filing consultations, formal application procedures,

²⁰ OECD. OECD/G20 Base Erosion and Profit Shifting Project: Explanatory Statement. OECD Publishing, 2015.

²¹ Brauner, Yariv, and Pasquale Pistone. "Adopting and Implementing Advance Pricing Agreements." *Intertax*, vol. 45, 2017, p. 609.

²² Michelle Markham, *Advance Pricing Agreements: Past, Present and Future* (Kluwer Law International, 2005).

²³ Valerie Braithwaite, *Taxing Democracy: Understanding Tax Avoidance and Evasion* (Ashgate, 2003).

²⁴ National Tax Agency of Japan, *APA Program Annual Report* (Tokyo, 2022).

²⁵ Organisation for Economic Co-operation and Development, *Model Tax Convention on Income and on Capital* (OECD Publishing, 2017).

negotiation phases, and monitoring mechanisms. These processes are often supported by extensive transfer pricing guidance, including the widely recognised OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.²⁶ These guidelines provide detailed recommendations on comparability analysis, selection of transfer pricing methods, and documentation requirements.

Despite these common institutional features, the implementation of APA programmes varies significantly across jurisdictions. Prior studies have highlighted the structural channels through which multinational enterprises engage in tax planning and profit shifting, while more recent research emphasises the role of institutional capacity and governance frameworks in addressing these challenges²⁷. This indicates that cross-country differences in APA implementation are not merely technical but fundamentally institutional in nature.²⁸ These trends are reflected in updated international standards, which increasingly emphasise risk-based approaches and coordinated dispute prevention mechanisms in transfer pricing governance.

In practice, some jurisdictions operate highly institutionalised APA programmes supported by substantial administrative capacity, whereas others maintain more limited frameworks due to resource constraints. Such disparities are particularly evident when comparing OECD countries with emerging economies.²⁹ Recent empirical studies confirm that variations in administrative capacity and institutional design significantly influence the effectiveness of tax governance in addressing multinational profit shifting.³⁰ Similarly, prior research demonstrates that transfer pricing practices and regulatory responses differ across developing economies, reflecting uneven institutional capacity and anti-avoidance frameworks.³¹ Existing literature also underscores the central role of

²⁶ OECD. *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. OECD Publishing, 2022.

²⁷ Beer, Sebastian, Ruud de Mooij, and Li Liu. "International Corporate Tax Avoidance: A Review of the Channels." *Journal of Economic Surveys*, 2019.

²⁸ OECD. *Cooperative Tax Compliance: Building Better Tax Control Frameworks*. 2021.

²⁹ OECD. *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. OECD Publishing, 2022.

³⁰ Brauner, Yariv. "What the BEPS?" *Florida Tax Review*, vol. 16, 2014, p. 55.

³¹ Johannesen, Niels, Thomas Tørsløv, and Ludvig Wier. "The Global Minimum Tax and Profit Shifting." *The Economic Journal*, 2023.

transfer pricing as a strategic instrument in multinational tax planning, especially within complex cross-border corporate structures.³²

In many emerging economies, the adoption of APA mechanisms reflects a broader effort to modernise tax administration and align domestic transfer pricing regimes with international standards.³³ However, the institutional environments in which these mechanisms operate differ substantially from those in OECD jurisdictions. Tax administrations in these contexts often face persistent constraints, including limited technical expertise, restricted access to comparable data, and broader administrative capacity challenges.³⁴

One of the primary challenges concerns the availability of specialised transfer pricing expertise within tax administrations. APA negotiations typically require complex economic analyses, including benchmarking studies and functional analyses of multinational enterprise structures. In OECD jurisdictions, tax authorities often employ teams of economists, legal experts, and data analysts to support these processes.³⁵ By contrast, many emerging economies have limited pools of such expertise, which can affect their capacity to negotiate and monitor sophisticated APA arrangements.

A second challenge relates to access to reliable comparable data. Transfer pricing analysis frequently relies on databases containing financial information about comparable companies operating in similar markets. These databases are widely available in developed economies but may be less accessible in developing jurisdictions.³⁶ As a result, tax administrations in emerging economies may encounter difficulties in conducting robust benchmarking analyses, particularly when dealing with highly specialised or intangible-intensive industries.

A third institutional constraint concerns the complexity of international coordination in bilateral and multilateral APAs. Negotiations between tax authorities

³² Sari, D., S. Utama, Fitriany, and N. Rahayu. "Transfer Pricing Practices and Specific Anti-Avoidance Rules in Asian Developing Countries." *International Journal of Emerging Markets*, vol. 16, no. 3, 2021, pp. 492–516. <https://doi.org/10.1108/IJOEM-10-2018-0541>;

Kumar, Satish. "What Do We Know about Transfer Pricing? Insights from Bibliometric Analysis." *Journal of Business Research*, vol. 134, 2021, pp. 275–287. <https://doi.org/10.1016/j.jbusres.2021.05.041>

³³ Cui, Wei. "China's Transfer Pricing Regime and Its Global Implications." *Bulletin for International Taxation*, vol. 72, 2018, p. 10.

³⁴ Picciotto, Sol. *International Business Taxation*. Cambridge UP, 2013.

³⁵ Eden, Lorraine, and Richard Collier. "Transfer Pricing and the Arm's Length Principle." *World Tax Journal*, vol. 9, 2018, p. 345.

³⁶ OECD. *Transfer Pricing Comparability Data and Developing Countries*. OECD Publishing, 2014.

require well-established competent authority procedures and strong institutional relationships with foreign tax administrations. OECD countries have developed extensive experience in these processes through decades of participation in tax treaty networks and mutual agreement procedures.³⁷ Emerging economies, however, may have more limited experience in conducting such negotiations, which can prolong APA procedures and reduce their practical attractiveness for taxpayers.

When viewed in comparative perspective, Vietnam's APA framework reflects partial convergence with OECD practices in terms of procedural structure and cooperative compliance orientation. However, significant divergence remains at the level of institutional capacity and governance safeguards. Unlike many OECD jurisdictions where specialised APA units operate with high levels of technical autonomy and transparency, Vietnam's system continues to rely on a hybrid model combining decentralised technical input with centralised approval authority. This divergence has direct implications for tax governance efficiency, as the benefits of cooperative compliance mechanisms may be constrained by institutional limitations in emerging administrative contexts.

4. Administrative Capacity and Technical Expertise

The effectiveness of Advance Pricing Agreement (APA) programmes depends not only on the existence of a legal framework but also on the technical and institutional capacity of tax administrations responsible for implementing transfer pricing rules. Transfer pricing regulation requires a high level of specialised expertise because the determination of arm's length prices involves complex economic analysis, including functional and risk assessments, benchmarking studies, financial modelling, and the use of international comparability databases.³⁸ These analytical processes are necessary to evaluate whether related-party transactions within multinational enterprise groups reflect market-based pricing conditions.

³⁷ Ring, Diane. "International Tax Relations: Theory and Implications." *Tax Law Review*, vol. 60, 2010, p. 83.

³⁸ OECD. *Tax Administration 2023: Comparative Information on OECD and Other Advanced and Emerging Economies*. OECD Publishing, 2023.
<https://www.oecd.org/tax/administration/tax-administration-23077727.htm>

International policy research consistently emphasises that administrative capacity constitutes a critical determinant of effective transfer pricing governance, particularly in developing and emerging economies. This insight is supported by prior research on international tax behaviour, which highlights both the structural incentives for profit shifting and the growing importance of governance capacity in ensuring effective tax compliance³⁹. The Organisation for Economic Co-operation and Development (OECD) further notes that transfer pricing administration requires multidisciplinary expertise, combining legal analysis, accounting knowledge, and economic modelling.⁴⁰ In the absence of such expertise, tax administrations may encounter significant challenges in evaluating complex corporate structures and intangible asset transactions commonly employed by multinational enterprises. Empirical evidence also indicates that capacity constraints continue to limit the ability of tax authorities in emerging economies to implement sophisticated transfer pricing tools effectively⁴¹. This challenge is particularly evident in emerging economies, where transfer pricing regulations continue to influence corporate decision-making behaviour and compliance strategies.⁴²

In Vietnam, the development of such technical expertise has historically been unevenly distributed across the tax administration system. Prior to the institutional reforms introduced in 2025, specialised transfer pricing analysis was largely concentrated within central units of the tax administration, particularly within the General Department of Taxation (GDT) and specialised departments located in major economic centres such as Hanoi and Ho Chi Minh City. At the provincial level, tax offices often possessed more limited access to specialised personnel and analytical resources required for sophisticated transfer pricing assessments.

The decentralisation of certain APA-related administrative functions therefore raises important questions concerning absorptive capacity at the subnational level.

Beer, Sebastian, Ruud de Mooij, and Li Liu. "International Corporate Tax Avoidance: A Review of the Channels." *Journal of Economic Surveys*, 2019.

OECD. *Cooperative Tax Compliance: Building Better Tax Control Frameworks*. 2021.

⁴⁰ OECD. *Tax Administration 2023: Comparative Information on OECD and Other Advanced and Emerging Economies*. OECD Publishing, 2023.
<https://www.oecd.org/tax/administration/tax-administration-23077727.htm>

⁴¹ Johannesen, Niels, Thomas Tørsløv, and Ludvig Wier. "The Global Minimum Tax and Profit Shifting." *The Economic Journal*, 2023.

⁴² Nguyen, H. N., et al. "Conceptualizing the Effects of Transfer Pricing Law on Transfer Pricing Decision Making of FDI Enterprises in Vietnam." *International Journal of Data and Network Science*, vol. 4, no. 2, 2020, pp. 187–198. <https://doi.org/10.5267/j.ijdns.2020.1.002>

Decentralisation can improve administrative responsiveness and reduce procedural bottlenecks, but it also creates potential risks of interpretative inconsistency if technical expertise is unevenly distributed across local tax authorities. Similar institutional challenges have been observed in other emerging tax administrations where transfer pricing enforcement initially relied on centralised expertise.⁴³

To mitigate these risks, the reform framework introduces several institutional support mechanisms aimed at strengthening administrative capacity. These measures include the development of standardised APA documentation templates, the issuance of technical guidance manuals, and the organisation of centralised training programmes for tax officials responsible for transfer pricing analysis. In addition, supervisory review procedures are expected to remain in place for complex cases, allowing central authorities to provide technical oversight and ensure consistency in the interpretation of transfer pricing rules.

These safeguards are intended to keep a balance between flexibility and consistency within the tax system. However, the long-term success of the reform will depend on continued investment in staff training, access to reliable data, and the ability to retain skilled personnel within the tax administration. If technical capacity is not strengthened, decentralisation may lead to uneven implementation across different regions. This could reduce predictability and weaken the role of APAs in preventing disputes.

From a governance perspective, uneven distribution of technical expertise may generate government-related risks, including inconsistent application of transfer pricing rules and increased reliance on discretionary judgement. Such risks may undermine taxpayer confidence and reduce the predictability that APA mechanisms are intended to provide. Therefore, strengthening technical capacity is not only a matter of administrative efficiency but also a key element of effective tax governance.

5. Transparency and Cooperative Compliance

Beyond considerations of administrative efficiency, Advance Pricing Agreements (APAs) play a broader role within contemporary cooperative compliance frameworks in

⁴³ World Bank. *Transfer Pricing and Developing Economies: A Handbook for Policy Makers and Practitioners*. World Bank, 2016. <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/230331483627135642>

international tax governance. Cooperative compliance is premised on the idea that transparent communication, mutual trust, and early engagement between taxpayers and tax authorities can improve tax compliance while reducing the need for adversarial enforcement mechanisms.⁴⁴ Within this framework, APAs function as institutional instruments that facilitate structured dialogue between multinational enterprises and tax administrations concerning the appropriate application of transfer pricing rules. Empirical studies further indicate that participation in cooperative compliance programmes is influenced by factors such as transparency, perceived fairness, and administrative trust.⁴⁵

A central element of cooperative compliance regimes is the predictability of administrative procedures. Clear procedural guidelines, structured negotiation stages, and transparent timelines encourage taxpayers to participate voluntarily in advance agreement programmes. From the perspective of multinational enterprises, APAs provide ex ante certainty regarding transfer pricing methodologies, thereby reducing the risk of unexpected tax adjustments, costly audits, and prolonged dispute resolution processes.⁴⁶ In turn, tax administrations benefit from improved information exchange and a clearer understanding of complex corporate structures before transactions are subject to formal examination.

International experience suggests that transparency in APA procedures contributes significantly to the credibility of transfer pricing governance systems. The Organisation for Economic Co-operation and Development (OECD) emphasises that cooperative compliance initiatives depend on open communication channels, timely administrative responses, and clearly defined procedural expectations for both taxpayers and tax authorities.⁴⁷ These institutional features are particularly important in jurisdictions where transfer pricing enforcement is still evolving and where multinational enterprises seek greater certainty in regulatory interpretation.

⁴⁴ OECD. Co-operative Compliance: A Framework – From Enhanced Relationship to Co-operative Compliance. OECD Publishing, 2013. <https://www.oecd.org/tax/administration/co-operative-compliance.htm>

⁴⁵ Goslinga, Sjoerd, et al. “Cooperative Compliance Programmes: Who Participates and Why.” *Journal of Tax Administration*, vol. 6, no. 2, 2021, pp. 95–121.

⁴⁶ OECD. Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. OECD Publishing, 2022. <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

⁴⁷ OECD. Tax Administration 2023: Comparative Information on OECD and Other Advanced and Emerging Economies. OECD Publishing, 2023. <https://www.oecd.org/tax/administration/tax-administration-23077727.htm>

Recent reforms in Vietnam suggest a stronger focus on improving transparency in the APA system. The introduction of clearer procedural steps, better internal tracking of cases, and a more defined division of responsibilities may make the negotiation process more predictable. These changes can help reduce uncertainty for taxpayers while also improving coordination within the tax administration.

However, transparency cannot be ensured simply by introducing formal procedures. In practice, it also depends on how consistently these rules are applied, the availability of clear guidance, and ongoing communication between tax authorities and taxpayers. In this respect, the development of Vietnam's APA framework reflects a broader process of institutional learning in which tax administrations gradually adapt international regulatory instruments to domestic administrative realities.

Ultimately, the effectiveness of cooperative compliance mechanisms such as APAs depends on the interaction between legal design, administrative capacity, and organisational culture within tax authorities. Where these institutional elements develop in a mutually reinforcing manner, APA programmes can contribute not only to dispute prevention but also to the broader transformation of tax governance toward more transparent and cooperative regulatory relationships.

However, transparency in APA procedures must be accompanied by robust accountability mechanisms. Without clear criteria for decision-making and effective review processes, increased procedural flexibility may lead to variations in interpretation and potential governance concerns. In this regard, accountability plays a crucial role in ensuring that cooperative compliance frameworks operate in a manner that is both efficient and institutionally credible.

International policy discussions increasingly emphasise tax certainty as a central objective of modern tax administration, particularly in the context of cross-border investment.⁴⁸

6. Administrative Performance and Institutional Capacity

The effectiveness of an Advance Pricing Agreement regime depends not only on the existence of a formal legal framework but also on the administrative performance and institutional capacity of the tax authority responsible for its implementation. In the field

⁴⁸ OECD. *Tax Certainty Day Report*. 2024.

of international taxation, administrative capability plays a decisive role in determining whether regulatory mechanisms designed to prevent transfer pricing disputes can operate effectively in practice.

APAs are generally defined as arrangements between taxpayers and tax authorities that determine in advance the appropriate transfer pricing methodology to be applied to controlled transactions over a specified period of time.⁴⁹ By providing ex-ante certainty regarding the tax treatment of related-party transactions, APAs are intended to reduce the likelihood of transfer pricing disputes and minimise the risk of double taxation in cross-border economic activities.⁵⁰ However, the successful operation of such preventive mechanisms depends heavily on the capacity of tax administrations to conduct complex economic analysis and manage technically demanding negotiation processes.

International policy research consistently emphasises that administrative capacity is a critical prerequisite for effective transfer pricing governance. The Organisation for Economic Co-operation and Development (OECD) has noted that tax administrations involved in transfer pricing regulation must develop specialised expertise in economic evaluation techniques, comparability analysis, and the interpretation of increasingly sophisticated multinational business structures.⁵¹ Without such expertise, tax authorities may encounter substantial difficulties when assessing the pricing policies adopted by multinational enterprises, potentially weakening both the credibility and the practical effectiveness of APA programmes.

From an institutional perspective, administrative performance in the context of APA implementation can be analysed through several interrelated dimensions.

First, technical expertise relates to whether tax authorities have staff with the necessary skills to handle complex transfer pricing cases. As multinational business structures become more sophisticated, assessing these transactions often requires a mix

⁴⁹ OECD. Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. OECD Publishing, 2022. <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

⁵⁰ OECD. Tax Administration 2023: Comparative Information on OECD and Other Advanced and Emerging Economies. OECD Publishing, 2023. <https://www.oecd.org/tax/administration/tax-administration-23077727.htm>

⁵¹ OECD. Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. OECD Publishing, 2022. <https://www.oecd.org/tax/transfer-pricing/oecd-transfer-pricing-guidelines-for-multinational-enterprises-and-tax-administrations-20769717.htm>

of legal understanding, economic analysis, and accounting knowledge.⁵² The presence of such expertise within tax administrations is therefore essential for ensuring that APA negotiations produce economically sound and legally defensible outcomes.

Second, institutional coordination refers to how well different units within the tax authority work together during the APA process. In cases involving bilateral or multilateral APAs, this also includes coordination with foreign tax authorities under existing tax treaties. Good coordination is important to ensure that transfer pricing rules are applied consistently and that negotiations can be completed in a timely manner.

Third, procedural efficiency reflects the capacity of tax administrations to process APA applications within reasonable timeframes while maintaining transparent decision-making procedures. Recent international statistics suggest that the use of advance pricing agreements continues to expand globally. OECD data presented at the 2025 Tax Certainty Day indicate that 1,169 new APA applications were filed worldwide in 2024 and 826 agreements were concluded, illustrating the growing reliance on APAs as dispute-prevention mechanisms in international taxation.⁵³

For emerging economies such as Vietnam, strengthening administrative capacity is especially important as transfer pricing rules become more closely linked to global tax standards. This means improving expertise, strengthening coordination within the tax system, and investing in training for tax officials. These steps are essential if the APA framework is to work effectively in preventing disputes and providing greater certainty for cross-border transactions. These findings align with broader literature suggesting that the success of cooperative compliance frameworks depends on the interaction between institutional design and governance capacity rather than formal legal provisions alone.⁵⁴

⁵² World Bank. *Transfer Pricing and Developing Economies: A Handbook for Policy Makers and Practitioners*. World Bank, 2016. <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/230331483627135642>

⁵³ Ernst & Young. "OECD Holds Tax Certainty Day, Presenting MAP and APA Statistics and Addressing Dispute Prevention and Resolution Developments." 2025. <https://globaltaxnews.ey.com/news/2025-2219-oecd-holds-tax-certainty-day-presenting-map-and-apa-statistics-and-addressing-dispute-prevention-and-resolution-developments>

⁵⁴ OECD. *Cooperative Tax Compliance: Building Better Tax Control Frameworks*. 2021; Beer, Sebastian, Ruud de Mooij, and Li Liu. "International Corporate Tax Avoidance: A Review of the Channels." *Journal of Economic Surveys*, 2019.

Taken together, these findings indicate that while Vietnam's APA reform represents a significant step towards a more cooperative and flexible model of tax administration, its overall impact on tax governance efficiency remains conditional. Improvements in procedural design and institutional restructuring may enhance administrative responsiveness; however, without corresponding advances in technical capacity, coordination, and accountability, the effectiveness of APA mechanisms in preventing disputes and ensuring consistent tax administration may be limited. This suggests that APA reform should be understood not merely as a legal or procedural adjustment, but as part of a broader transformation of tax governance in emerging economies.

III. CONCLUSION

Vietnam's reform of the Advance Pricing Agreement regime underscores a broader shift in tax governance in emerging economies, where effectiveness depends less on formal legal alignment than on the interaction between institutional design and administrative capacity. While the 2025 reform improves procedural efficiency through clearer allocation of responsibilities, its long-term success hinges on specialised expertise, strong inter-agency coordination, and transparent, consistent procedures. Absent these conditions, risks of fragmented implementation may persist. This study contributes by reframing APAs as governance instruments rather than technical tools, highlighting the central role of capacity and procedural integrity. Future progress requires sustained investment in training, clearer procedural rules, stronger monitoring systems, and further comparative research to assess broader applicability.

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