ON AUDITING FINANCIAL STATEMENT OF FOREIGN INVESTED COMPANIES

by MEcon. TRẦN THANH XUÂN

In the market economy, auditing is a necessary business, especially in Vietnam in its transition to the market economy.

As for foreign-invested companies operating according to the Foreign Investment Law, their financial statements must be audited as required by Vietnamese laws.

Article 37 of the Foreign Investment Law states: "... annual financial statements of foreign-invested companies and foreign parties in the business cooperation contracts must be audited by a Vietnamese independent auditing company or a foreign one allowed to do business in Vietnam according to laws relating to the auditing business. The annual financial statement should be sent to financial authorities and governmental bodies controlling foreign investment."

Article 64, "Financial statement", of the Decree 24/2000/NĐ-CP issued on July 31, 2000 providing guidelines on the implementation of the Foreign Investment Law states:

"Annual financial statement of foreign- invested companies and foreign parties in the business cooperation contracts must be audited by an auditing company allowed to do business in Vietnam according to regulations on auditing set be laws before sending to the said governmental bodies.

The auditing company must bear responsibility for the independence, objectivity and honesty of its auditing report."

To implement the Decree 24/2000/NĐ-CP, the Ministry of Planning and Investment issued Directive 12/2000/TT-BKH on Sep. 15, 2000 providing "Guidelines on Foreign Investment Management". Regulations on auditing business set by this Directive are as follows:

- Article 36: Auditing cost of construction works

"Cost of construction works presented in the expense statement must be audited. After auditing, the auditing company sends audit report to the investor."

- Article 53: Reporting regulations.

"Foreign-invested companies and foreign parties in the business cooperation contracts must send audited annual financial statements to Ministries of Trade, and of Planning and Investment and General Department of Statistics."

These documents show that to have financial statements audited is mandatory for foreign-invested companies and this rule is observed properly, but governmental bodies controlling companies didn't considered the audit of financial statement as mandatory. Article 64 of Decree 24/2000/NĐ- CP states:

"Audited financial statements of foreign-invested companies and foreign parties in the business cooperation contracts could be used as a basis for determining tax payments and other financial obligations to Vietnamese Government."

In Directive 89/1999/TT-BTC issued by the Ministry of Finance on July 16,1999 directing the implementation of tax rules to foreign-invested businesses in Vietnam set by the Foreign Investment Law, Part III, Section 1, Subsection 2 relating to annual tax reporting, states:

"2. Provincial and municipal tax agencies work out tax payments by companies during the fiscal year based on companies' production reporting and financial statement, and at the same time, consult tax forms made by companies during the year in order to assess the exactitude of these tax forms and tax reports. If these tax reports by companies aren't exact, the tax agency will carry out inspection of companies' tax payments."

The following are our remarks on these documents:

(1) Regulation on audit of financial statement is unreasonable: to have financial statement audited is mandatory for foreign-invested companies but audit report is only used for reference by governmental bodies. Thus why foreign-invested companies are forced to have their financial statements audited while the auditing fee isn't small (from US$1,500 to 5,000)?

(2) Law documents didn't require exact types of audit reports or audit opinions. This means that any types of audit opinion are acceptable. Experience shows that only 70% of audit opinions are unqualified ones; and many qualified opinions (or "except for" opinions) refuse to give judgements about important problems such as debt receivable or inventory of the company being audited. Particularly, there are some audit opinions in which auditors assume continuous operation of the company as a hypothesis but the audit report is still accepted and it causes no effect on the company.

To overcome these shortcomings in order to make audit business part of operation of foreign-invested companies, the following solutions could be adopted:

- Audit of financial statement isn't mandatory for foreign-invested companies; it is advisable but not mandatory. For the time being, foreign-invested projects that worth under US$1 million could be exempt from audit requirement with a view to saving them from unnecessary expenses.

- Regulations on legal status of audit report should be set forth. Audit evidence should be treated as a basis for financial inspection instead of being used for reference. In addition, regarding qualified or "except for" audit opinions, governmental regulatory bodies should require the audited company to supply explanation or necessary materials or carry out other necessary measures.