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New Rules on Deduction of A&P Expenses

Among the Implementation Rules of Corporate Income Tax (“CIT”), there is stipulation for an upper limit allowable for tax deduction for advertising and sales promotion expenses (“A&P”) based on turnover. However, the part in excess of the allowable limit can be carried forward for

deduction with no time restriction. The general limit is 15% but Caishui [2009] No. 72, released on 31st July 2009, increased this limit to 30% for certain industries. And the most recently released Caishui [2012] No. 48 further reinforces the more relaxed attitude of the Tax Authorities over this limit and gives some clarification on how to claim for tax deduction for A&P expenses incurred by related companies subject to some cost-sharing agreement.

CIT Deduction of Share-based Incentives

On 23rd May 2012, SAT released its Pronouncement No. 18 this year to stipulate the tax allowance for equity incentives given to employees for certain qualified enterprises who have set up the scheme according to the “Trial Version of Administrative Measures on Share-based Incentive of Listed Companies” announced by China Securities Regulatory Commission (“CSRC”). Generally speaking, the deductible amount of the share-based incentives as employee remuneration expenses is the difference between the fair market value of the shares at the date of exercise and the exercise price. And the time of deduction is in the year of exercise. Expenses recognized during the vesting period according

to the Chinese Accounting Standards are not deductible from CIT perspective. The regulation will become effective from 1st July 2012.

Further Step on RMB Cross-border Settlement

In March 2012, six relevant authorities had announced a circular, Yinfa [2012] No. 23, which says the RMB settlement pilot program on product export business will be extended to all eligible enterprises in the list approved by the Government. This list released to the public in mid June virtually includes all the enterprises who have the license to operate import and export business. These enterprises can now choose to accept RMB for settlement of the products they export to the foreign customers.

Specific Clarification on Tax Arrangements with HK and Macau

There are Tax Arrangements between Hong Kong/Macau and Mainland China respectively to avoid double taxation. On 26th April 2012, SAT announced a circular, Pronouncement [2012] No. 16, to give detailed and specific interpretation on taxes relating to income of employment under the two Tax Arrangements, which includes formulae, definition and interpretation of different terms and filing requirements. It became effective from 1st June 2012.

Creditability of VAT Input regarding Deemed Domestic Sales in Export Trading Companies

Generally export business will not have output VAT against which input VAT can be set off. However, according to Guoshuihan [2008] No. 265, some export transactions may be deemed as domestic sales under certain situations such as failure to apply for VAT refund within the time allowed and failure to provide VAT refund supporting documents in time. These deemed domestic sales will be subject to VAT output against which input VAT is allowed to credit provided that certain certificate from the Tax Refund Authority is obtained within the stipulated time limit. On 25th May 2012, SAT issued Pronouncement

[2012] No. 21 to let export trading companies continue to apply for the certificate for VAT input credit even beyond the time limit which is no doubt appreciated by most entities.

Service Highlight

Gaining full understanding of the principles and rationales behind the regulations, especially in the ever-changing regulatory environment in China, is a must to be regulation compliant and mitigate relevant risks. We have been helping our clients to this direction with our expertise and solid experience in China. For any assistance or help from us, please feel free to call Ms Mary Li, our Marketing Executive, on +852 3579 8745 or email her at maryli@sinobridge-consulting.com.

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