SINO-BRIDGE
Consulting Group

# China Business Advisory

2009 Issue 3 Mar 2009

## Coke did not pass anti-monopoly review for purchase of Huiyuan

China Ministry of Commerce (MOC) said on March 18th, 2009 that Coca-Cola's bid to acquire China Huiyuan Juice Group did not pass anti-monopoly review. The Ministry said the acquisition would affect or limit competition and is not conducive to the healthy development of China's juice industry.

"It is only an isolated case, and it does not suggest any change in China's policy on foreign investors," the official said. The MOC also explained that it has investigated 29 proposed acquisitions under the antimonopoly law since August and approved 24.

“It is not protectionist” said Commerce Minister, Chen Deming, on March 22nd 2009. Chen also said both are foreign companies - although Huiyuan operates mostly in China, it is registered in the Caymen Islands and listed in Hong Kong. He repeated the government's objection that a tie-up would have been bad for competition and hurt consumer choice. "We still hope that both Coke and Huiyuan can develop healthily in China."

## Further uplifting of export Value Added Tax (VAT) refund rates

On February 5th 2009, the Ministry of Finance (MOF) and State Administration of Taxation (SAT) jointly issued a Circular, Cai Shui [2009] No.14 which introduces uplifting of the export VAT refund rates for textile and garment to 15% with effect from February 1st, 2009.

The Chinese government has employed a number of policy tools to stimulate the economic growth. Among them maneuvering the export VAT refund rates is a favourite ploy.

## Classification of taxpayers eligible for export tax refund in Guangdong province

On February 19th 2009, a circular, Yue Guo Shui Fa [2009] No. 28, was issued by Guangdong Provincial State Tax Bureau. It published a new regulation called “Guangdong Province Export Tax Refund Classification Administration Rules (Trial Edition)” which principally introduces rules for a 4 level classification for tax payers who are eligible for export tax refund. The essence of this local regulation is to give preferential treatment to taxpayers according to their tax contributions, export revenue and timeliness of tax payments.

## Implementation in Guangdong Province of regulations for extra tax allowance for qualifying R&D expenditures

Guangdong Provincial State Tax Bureau and Guangdong Provincial Local Tax Bureau jointly transmitted a circular from State Administration of Taxation (SAT) on February 16th 2009, Guo Shui Fa [2008] No. 116, which gives extra tax allowance for qualifying R&D expenditures to arrive at Corporate Income Tax (CIT). In brief, the rules allow an extra 50% of eligible R&D expenditures to be deductible against taxable income to arrive at CIT.

## Further strengthening on tax levy to non-resident tax payers

A circular, Guo Shui Fa [2009] No. 32, was published on March 9th 2009 by SAT, which is one of a series of circulars relating to tax levy on non-resident tax payers. This circular stressed on administrative measures such as reinforcement on non-resident tax payer registration, paying more attention to business activities involving non-resident tax payers, separate annual settlement and filing of CIT of non-resident tax payers, strengthening on fulfillment of tax withholding responsibilities, and more use of IT support.

The government showed a firm and steady move to take on the more difficult and complicated transactions, especially those involving multi-national companies. Be on alert for the update of policies in these regards. Dynamic planning is vital for foreign investors or those who have business dealings in China.

## Grandfathering treatment for some issues since the implementation of the new CIT law

SAT issued a circular, Guo Shui Han [2009] No. 98 on February 27th 2009, to clarify the grandfathering treatment for the following issues so as to align the former CIT law with the latest one which was effective from 2008:

- ✓ Residual value and depreciable life of fixed assets
- ✓ Deferred income
- ✓ Interest income, rental income and Intellectual Property income
- ✓ The balance of staff welfare payable brought forward from prior years
- ✓ The balance of staff training fund brought forward from prior years
- ✓ The staff remuneration reserve of the "salary-performance relating" companies
- ✓ The advertisement expenses brought forward from prior years
- ✓ The loss resulting from additional deduction of R&D expenditures
- ✓ The start-up expenditures treatment

## New regulation on tax treatment for real estate development business

A new circular, Guo Shui Fa [2009] No. 31, was issued by SAT on March 6th 2009 which publishes regulation on CIT treatment for the business of real estate development and operation. This regulation stipulates the treatment for income and expenses and addresses some costing and other special issues. It is applicable retrospectively from January 1st 2008.

## Our China Investment Business Advisory Team

Hong Kong
Rm 803-4. 8/F., Seaview Commercial Bldg,
21-24 Connaught Road West, Hong Kong

Guangzhou
17H, East Tower, Fuxing Comm. Bldg., 159-163 Huangpu Rd West, Tianhe Dist,
Guangzhou, PRC 510620

Shanghai
Room 17C ,Jin Cheng Building , No. 15 Xiang Cheng Road,
LuJiaZui Finance & Trade Zone,
Shanghai, PRC 200122

Lyon Odiceo
115 Boulevard Stalingrad – BP52038
69616 Villeurbanne Cedex

Paris Odiceo
49 bis avenue Franklin Roosevelt
75008 PARIS

Company Website:
www.sinobridge-consulting.com

General:
Tel: (852) 3579 8745
E-mail: info@sinobridge-consulting.com