

China Business Advisory

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Annual Inspection of WOFE

According to Shangzihan [2012] No. 98, the circular issued by six relevant governmental departments on 29th February 2012, the submission of the Annual Inspection documents for 2012 for FIEs will start from 1st March 2012. FIEs are encouraged to effect this through the special websites set up by local authorities. Currently, 20

cities/districts, including those in Guangdong, Hunan, Zhejiang, Beijing, Shanghai and Tianjin etc. have set up special websites for this. Using professional accountants for this is recommended by us so as to present an objective picture of the operation in compliance with relevant regulations.

Deed Tax Exemptions

On 12th January 2012, the Ministry of Finance and the State Administration of Taxation (“SAT”) jointly issued Caishui [2012] No. 4, which clearly spelled out the conditions for deed tax exemption during the period from 1st January 2012 to 31st December 2014. Before the circular, the Deed tax rate is between 3% to 5%. The rate is determined by individual provincial governments.

Deed tax will now be exempted on transfer of real property or land use rights under the following conditions:

- Changes in corporate form, e.g. from non-corporate entity to a limited liability company where the new enterprise will take up all the legal rights and obligations of the existing operation;

- Transfer of shares of the enterprise where the legal title of the real property or land use rights remains with the existing enterprise;
- In mergers or spin-offs where the original owners are the new owners of the new enterprise(s);
- As part of the total transfer of a state-owned enterprise or collectively-owned enterprise the new enterprise is willing to employ all the existing employees of the existing enterprise for more than three years (if the commitment is only for employing more than 30% of employees for more than three years, deed tax would be reduced by half);
- To creditors in a compulsory liquidation and, with voluntary liquidation, to the members of the company if they are willing to employ all the existing employees of the existing enterprise for more than three years (if the commitment is only for employing more than 30% of employees for more than three years, deed tax would be reduced by half);
- Between enterprises within the same group;

Rules of Origin under CEPA between Mainland and Hong Kong

According to Supplement VIII to Closer Economic Partnership Agreement (“CEPA”) between Mainland and Hong Kong, provisions of General Administration of Customs relevant to the Rules of Origin were amended which took effect from 1st April 2012.

The original “Value-added content” stipulated that the total value of raw materials, component parts, labour costs and product development costs exclusively incurred by one side needed to be greater than or equal to 30% of the FOB value of the goods being exported and the final manufacturing process must be completed in Hong Kong.

The new rule allows raw materials and component parts originating from Mainland China to be incorporated into those originating from Hong Kong in the calculation of the value-added content. Where the value of raw materials and component parts originating from Mainland China is not taken into account, the value-added content should be greater than or equal to 15% of the FOB value of the goods being exported. Thanks to this amendment, more products will enjoy zero duty rate under CEPA.

Advance Pricing Arrangement in China

SAT has published the second annual report on Advance Pricing Arrangement (APA). It presents the legislation and practice development of China's APA system and procedures, covering the development, statistical data and the 61 APAs signed from 2005 to 2010.

The report shows that China follows the commonly adopted processes of:

- a. pre-filing meeting;
- b. formal application;
- c. examination and evaluation;
- d. negotiation;
- e. signing; and
- f. implementation and monitoring

News on tax reform (Business Tax to Value Added Tax)

According to the article written by Mr. Xiao Jie, Secretary of SAT, taking 2009 as a base there will be a net reduction of tax of RMB100 billion after the completion of the reform to replace business tax by value added tax. Furthermore:

- a. GDP will be increased by 0.5%;
- b. export will be increased by 0.7%;
- c. social investment will be increased by 0.2%;
- d. jobs will be increased by 700,000;

Apparently, in spite of the reduced tax revenues, there are huge social benefits which motivate the government to push the reform to other cities sooner.

Service Highlight

Proper compliance in the dynamic regulatory environment in China is a critical and challenging matter. We have been striving to help our clients to manage this with our expertise. If you need any assistance or help, please feel free to call our Marketing Executive, Ms Mary Li, on +852 3579 8745 or email her at maryli@sinobridge-consulting.com.

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