

China Business Advisory

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Release of a series of new regulations regarding Representative Office (“RO”)

Following the recently released “Administrative Rules on Registration of Representative Offices of Foreign Enterprises” which became effective on 31st March this year and was brought to your attention in our CBA December 2010 Issue, a series of new regulations have since then been announced by State Administration for Industry & Commerce (“SAIC”) to facilitate their implementation. These regulations include

Circular Gongshangwaiqizi [2011] Nos. 26, 27 and 28 which detail the revised documentation for RO registration, requirements of annual report, general arrangements for application for new registration and representative certificates. Some relevant templates can be found within these regulations. All ROs are required to apply for the new certificates between 1st March and 30th June 2011. The annual report is one of the prerequisite documents for application for renewing the RO certificates for ROs established before 2011. If an extension for renewal application is necessary, 30th August 2011 will be the ultimate deadline. We recommend our clients to review all the regulations and their operation carefully, contact local authority proactively, prepare all relevant documents and information appropriately, go through all the proper procedures and avoid unnecessary compliance risks. We will be pleased to provide any support and assistance with regard to these matters.

Central Bank's promotion of RMB cross-border settlement

As a step to further reinforce RMB cross-border settlement, the Central Bank released Pronouncement NO. 1 on 6th January 2011 which details the “Administrative Measures on RMB Overseas Direct Investment Pilot Program”. Non-financial enterprises in the pilot locations could use RMB for overseas equity investments upon the approval of local Foreign Exchange Authority. The initial amount of investment will in principle be approved if it is within 15% of the total investment expenditure. This proportion could be higher for M&A transactions. On this note, it is worth referring to the following table for the key development of the internationalization of RMB.

Time	Progress
April 2009	The State Council decided to kick off the RMB Cross-border Trade Settlement Pilot Program in five cities. (Our CBA April 2009 issue refers).
July 2009	“Administrative Measures on RMB Cross-border Trade Settlement Pilot Program” was released by the government. (Our CBA July 2009 issue refers). The Central Bank announced the “Implementation Rules” for the above Administrative Measures and the relevant requirements with regard to “International Income/Expenditure Application”.
August 2009	State Administration of Taxation (“SAT”) came up with relevant export tax refund policies. (Our CBA September 2009 issue refers)
September 2009	The Customs Authority announced the relevant cooperative customs declaration policies.
March 2010	The Central Bank released the “Cross-border RMB Payment/Receipt Information Administration System” to collect, analyze and monitor the information of relevant transactions.
June 2010	The government expanded the Pilot Program to cover more cities in China and to allow trade counterparts to be located in any country/region in the world. (Our CBA July 2010 issue refers.) SAT announced further requirements for the assessment of candidate enterprises and upgraded the tax refund IT system.
January 2011	The Central Bank released the “Administrative Measures on RMB Overseas Direct Investment Pilot Program” to facilitate overseas RMB direct investments for non-financial enterprises in the pilot locations.

Enactment of the Vehicle & Vessel Tax (“VVT”)

China had applied different regulations regarding VVT on domestic and foreign entities/individuals until 2007 when the authority integrated them into one regulation that took effect on 1st January 2007. On 25th February 2011, the Standing Committee of the National People’s Congress enacted the VVT Law which was announced by President Decree No. 43. This new law will come into effect on 1st January 2012. The main changes to the existing regulation are:

- All registered and non-registered vehicles and vessels will be subject to VVT;
- Passenger vehicles will be classified into different categories according to its engine capacity based on which VVT will be levied;
- Yacht will be taxed from RMB600 to RMB2000 per year based on its length;
- Discount on VVT will be given to energy-saving or green-energy vehicles and vessels, vehicles used mainly on the countryside and under certain special circumstances, such as natural disasters;
- Both the owner and manager of vehicles and vessels will be responsible to pay the VVT due;

Release of conjugated regulations regarding the revised Invoice Administration Measures

In order to facilitate the enactment of the revised Invoice Administration Measures (our CBA February 2011 Issue refers), SAT released Pronouncement No. 7 and Decree No. 25 in January and February respectively to provide details on requirements of the stamp for invoices and the implementation of the Invoice Administration Measures. The existing invoice stamp could be used until the end of this year. Both regulations became effective on 1st February, 2011.

Extension of preferential tax policy for small low-profit enterprises

SAT and Ministry of Finance (“MOF”) jointly issued a circular, Caishui [2011] No.4, on 27th January 2011 to announce the extension of the preferential Corporate Income Tax (“CIT”) policy for small low-profit enterprises to the end of 2011. Qualified companies could enjoy the much lower effective CIT

rate of 10%. The qualification criteria of small low-profit enterprises are specified in Article 92 of the implementation rules of the new CIT Law, which are generally based on the amount of taxable income and total assets, and number of staff.

Supervision of M&As of Chinese enterprises by foreign investors

The State Council released a circular, Guobanfa [2011] No. 6, to set up a ministerial joint panel to oversee the M&As of Chinese enterprises by foreign investors in order to safeguard the national security of China. Ministry of Commerce (“MOC”) and the National Development and Reform Commission (“NDRC”) will lead this panel which came into being on 5th March 2011 and covers takeovers and acquisitions of controlling interests of companies in industries having the following bearing:

- Military;
- Important agricultural products
- Energy resources
- Infrastructures
- Transportation
- Key technology and manufacturing equipment;

MOC subsequently released Pronouncement No. 8 on 4th March 2011 detailing the provisional regulations to be followed.

There is no doubt that foreign M&A transactions in certain sectors will be faced with greater scrutiny and more complicated procedures. There are still questions to be clarified with regard to the regulations and it is expected that clarification will follow.

Service Highlight

Sino-Bridge has been striving to provide the best services to our clients and assist them to succeed in the Chinese market full of opportunities and challenges at the same time. Should you need any help at any time, please feel free to contact May Lau, our Marketing Executive at maylau@sinobridge-consulting.com.

Our China Investment Business Advisory Team

Hong Kong

Rm 2301-02, 23/F, Prosperity Center,
25 Chong Yip Street, Kwun Tong, Kowloon, Hong Kong

Guangzhou

Room A010, 1/F, No. 50 Changgang South Street,
Changgang Middle Road, Haizhu District, Guangzhou,
PRC 510250

Shenzhen

Room B02, 19/F, Petrel Hotel,
No.3002 Jiabin Road,
Shenzhen, PRC 518001

Shanghai

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

Company Website:
www.sinobridge-consulting.com

Lyon Odiceo

115 Boulevard Stalingrad – BP52038,
69616 Villeurbanne Cedex, France

Paris Odiceo

49 bis avenue Franklin Roosevelt,
75008 PARIS, France

USA Office

2583 Grassmoor Loop, Apopka,
FL 32712, USA

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

Hong Kong Guangzhou Shenzhen Shanghai Lyon Paris

For any enquiries, please contact Ms. May Lau, Marketing Executive: maylau@sinobridge-consulting.com Tel: (852) 3579 8745
www.sinobridge-consulting.com