

TAX UPDATES

Changes in Representative Office Taxation (March 2010)

The SAT recently issued Guoshuifa (2010) No. 18, a measure which further alters policy towards foreign companies with Representative Offices in China. In effect from January 1, 2010, companies will now have to pay corporate income tax on their taxable income, sales tax, and VAT. They must assess their corporate income tax using a cost plus or actual revenue method, with a profit margin amounting to no less than 15%. This is an increase from the previous stipulation of 10%. The actual revenue method applies to companies who can prove their gross income and expenses, while two different cost plus methods apply to companies who cannot adequately provide this information.

In order to comply with this new law, companies must accurately calculate their taxable income, and declare this to authorities at least 15 days before the end of the quarter. They also must provide valid accounting records and notify relevant authorities of any changes regarding tax registration or early termination of business activities. According to the law, authorities now have the right to penalize those ROs who do not provide accurate or complete records. In addition, ROs should obtain relevant business documents from local authorities within 30 days of obtaining new information. A possible concern of the new rules is that it repeals previous measures (namely, Circular 165 [1996]) without addressing specific changes. The new circular represents a large shift in tax treatment for ROs, and companies should determine exactly how this will affect them. It is important to keep accurate accounting records and take note of how the new measures affect China operations.

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