

China alert

Tax and regulatory developments

TAX

Issue 7, June 2010

Jiangsu Tax Authority Summit

In Brief

- Enterprises required to prepare contemporaneous documentation in China's Jiangsu province were recently invited to a summit, hosted by the tax authorities, to discuss transfer pricing documentation requirements.
- The authorities shared their interpretation of the relevant circulars with the several hundred taxpayers in attendance and urged taxpayers to comply with the regulations.

Regulation discussed in this issue:

Implementation Measures of Special Tax Adjustments (Provisional), Guoshuifa [2009] No. 2, issued by the State Administration of Taxation and effective from 1 January 2008 (Circular 2)

Background

The tax authorities of Jiangsu, the third largest province in China by GDP and the fifth largest by population, arranged a tax summit on 25 May 2010. With only a week left before the due date for filing taxes, the focus of the summit was the preparation of contemporaneous documentation under Circular Guoshuifa [2009] No. 2 (Circular 2) and other circulars which, for qualified taxpayers, must be prepared by 31 May. Other forms of documentation were also discussed.

The summit, which comprised a number of meetings at several locations around Jiangsu linked together via video conference, was geared towards taxpayers required to prepare documentation. This event allowed the tax authorities an opportunity to present their interpretation of the current transfer pricing regulations in China as they relate to documentation. Enterprises that were required to prepare contemporaneous documentation were invited, resulting in several hundred taxpayers attending the meetings.

Tax Summit Main Discussion Topics

The tax authorities began the seminar by categorising transfer pricing documentation into three main types and discussing the due dates for each:

1) Transfer Pricing Contemporaneous Documentation:

Under normal circumstances, this must be prepared by 31 May and submitted within 20 days of a request from the tax authorities. For enterprises in the follow-up period after a transfer pricing audit or loss-making single-function enterprises as described by Circular Guoshuifan [2009] No. 363, documentation must be submitted before 20 June.

2) Documentation related to thin capitalisation:

For enterprises whose debt-to-equity ratios exceed the prescribed safe-harbour ratios (provided in Circular Caishui [2008] No. 121), documentation must be submitted with the tax return.

3) Documentation for cost sharing arrangements:

This must be submitted by 20 June.

Insight Offered by Tax Authorities

In addition to reiterating the requirements for these types of documentation, the tax authorities focused on the interpretation of Circular 2. This circular provides the bulk of the detailed implementation rules concerning documentation, including applicability, contents and other requirements. In particular, the tax authorities discussed the level of detail required by Circular 2 and other regulations. For example, they said that further information should be given on the pricing mechanisms used, the factors considered and the circumstances surrounding the setting of related-party transaction prices. The tax authorities also reiterated that inconsistencies between the functional and risk profiles provided in the documentation and applications for high-technology status would lead to further questions from the tax authorities.

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