

Taking Care of Representative Office Operations

As reported in our Tax Alerts issued in May, we are seeing an increasing trend of the tax authorities' activities in tax inspection of corporate taxpayers. This trend now seems to be reaching Representative Offices ("RO's"). In fact, since mid-2010 there has been growing number of inspections of ROs by regulatory bodies and tax authorities. These inspections commonly target those ROs which are alleged or suspected of engaging in prohibited activities. Recent regulatory and tax inspections have been very coordinated in their deliberations (inspection team comprising of both licensing and tax authorities) and sophisticated in their approach (extended scope and length of examination); and rigorous in their actions (strict measures against violations).

What is in their sights?

The authorities have typically focused on the following:

- The RO's excessive promotion and marketing expenditures
- Excessive employment of sales or marketing personnel
- Significant management control arrangement over the commercial activities of distributors, business partners, importers and affiliated entities or sales outlets (ie. the entire supply chain)
- Other activities that may give rise permanent establishment; and
- Compliance of personal income tax obligations for employees and freelance workers



Possible targets and consequences?

We have seen targeted ROs including those employing a significant number of employees and/or engaging excessive sales or marketing activities in "sensitive" business sectors such as pharmaceuticals, trading, and certain service sectors etc. The list is not necessarily exhaustive.

Inspections could lead to findings of violations of the prohibited activities of the RO, omissions or under-declaration of personal income tax for employees, permanent establishment issues etc. The consequences may include financial impacts such as additional tax liabilities, penalties, and/or non-financial impacts such as withdrawal of the RO license, and exposure to negative publicity etc.

It is therefore important that ROs prepare themselves for full compliance with the Vietnamese laws and regulations. RO management needs to be aware of this new trend and make sure that their operations stay well on the safe side of the laws.

Please refer the attached article recently published on Vietnam Investment Review for our further insights.



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