



DEADLINE FOR SUBMISSION OF CONTEMPORANEOUS

DOCUMENTATION APPROACHES

In accordance with circular Guoshuifa [2009] 2 entitled “Implementation Regulations for Special Tax Adjustments (Trial)”, enterprises that are required to prepare contemporaneous documents for their related party transactions occurring during 2008, must submit their documents before 31 December 2009. To avoid late penalties it is crucial that documentation be submitted before that time.

See *In Focus* on page 2 for more details

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ADJUSTMENT OF IMPORT DUTIES ON MAJOR TECHNICAL EQUIPMENT

On 16 October 2009, six authorities of the PRC including the Ministry of Finance, the National Development and Reform Commission, the Ministry of Industry and Information Technology, the General Administration of Customs, the State Administration of Taxation and the National Energy Administration jointly issued Caiguanshui [2009] 55 entitled “the Circular Regarding Adjustment of Import Duties on Major Technical Equipment” (the Circular) to make adjustments to import tax on specified technical equipment.

The key points of the Circular are as follows:

- The Circular lists a catalogue of seventeen types of major technical equipment and products with national support as well as a catalogue of hundreds of norms of major technical equipment and products;
- The key spare parts and raw materials imported by domestic enterprises for producing major technical equipment and other products under national support program shall be exempted from import duties and import-related VAT;
- Import duty exemption policy on whole machines and complete equipment is scrapped by the Circular;
- As for those spare parts and raw materials which are domestically available but fail to fully fulfill the requirements and still need to be imported, preferential policies shall continue to be provided during a certain period as a transitional measure; and
- The policy of refunding import duty and import-related VAT for the key spare parts and raw materials imported by domestic enterprises to develop and manufacture major technical equipment shall be suspended.



IN FOCUS: What to Include in a Transfer Pricing Report?

The contents of contemporaneous documentation required to be included in a transfer pricing report as follows:

- **Organizational Structure** – a description of the relationship between the companies in the company group;
- **Overview of the Business Operations** – an explanation of the type of business operated by the companies and manner they are operated;
- **Information Regarding Related Party Transactions** – this includes the parties to the transaction, the volume, currency, transactional model, cash flow from the transactions etc;
- **Comparability Analysis** – this is basically an analysis of the comparable goods or services and significant detail of the comparisons, such as functions performed or physical characteristics is required;
- **Selection and Application of Transfer Pricing Methodologies** – a justification must be made for the particular methodology chosen and how the comparability analysis supports the methodology must be identified.

Among them, the comparability analysis is the focus of documentation preparation in respect of related-party transactions and the tax authorities investigations. The choice of comparable objects will be a significant determinate on whether the contemporaneous documents are accepted. Ultimately it is extremely important that transfer pricing reports be professionally prepared as they are extremely technical.

SAT and MOF grants significant tax benefits to investors in futures protection fund

The State Administration of Taxation (“SAT”) and the Ministry of Finance (“MOF”) have issued Circular Caishui [2009] 68 entitled “Tax Issues on Futures Investors’ Protection Fund”, which outlines preferential tax policies for the Futures Protection Fund Cooperation. The circular will come into effect from January 1, 2008 to December 31, 2010.

The Futures Investors Protection fund was established in September 2005 to provide investors with compensation where they lost money because of fraudulent futures brokers.. Under the arrangements implemented for the fund, futures exchanges were required to contribute 15 percent of their reserves to the fund initially, and 3 percent of transaction fees they charge to members every quarter. The effect of the new circular is that the company overseeing the fund, China Futures Margin Monitoring Center Co., Ltd, will effectively be exempt from income tax. The aim of the exemption is obviously to encourage confidence in the futures market in China.

EU to continue heavy tax on Chinese shoes?

The European Union has indicated that it may extend a 16.5% anti-dumping tax on shoes manufactured in China. The tax was first introduced in July 2005 and has led to a small decline in shoes exported to Europe. Despite indications of an extension it is felt that pressure from retail associations, which have been hurt by higher costs, will result in an end to the tax.