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FOREX Registration and Capital Verification for FIEs

Shanghai to introduce New Measures to Woo Foreigners

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China to launch Stock Index Futures Trading

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Foreign Exchange Registration and Capital Verification Reports for FIEs

The Notice of the Ministry of Finance and the State Administration of Foreign Exchange on Further Strengthening the Work of Verifying the Capital of Foreign-Invested Enterprises and Improving the Foreign Exchange Registration System for Foreign Investment was issued on March 15, 2002 and came into force on May 1, 2002.

The Notice sets forth additional capital verification methods that accountants must use when verifying the capital of foreign-invested enterprises. The Notice sets forth the circumstances in which accountants must send confirmation requests to the banks where foreign-invested enterprises have their bank accounts and to the foreign exchange authorities as well as the procedures to be followed in such situations.

After receiving a confirmation request concerning a foreign investor's capital contributions, the foreign exchange authorities must conduct an examination concerning the truth and legal compliance of the contents of the attached documents in accordance with the relevant regulations. If the foreign exchange authorities confirm that everything is in order regarding the truth and legal compliance of the attached documents, they should carry out foreign exchange registration for foreign investment.

After receiving the reply letter to the confirmation request, the certified public accountant should use the reply letter with the foreign investment foreign exchange registration number on it as a basis for issuance of the capital verification report.

China Legal Change, June 4, 2002

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Shanghai tries to Woo Foreigners

The Shanghai municipal government is to introduce new measures next month aimed at luring more overseas professionals to work in the city, according to the Shanghai Human Resources Consulting Association.

The association's secretary-general, Chen Xuanmin said on May 30 the measures included easing conditions for overseas professionals setting up companies in Shanghai. The association is a municipal body responsible for issuing operating licenses to recruitment agencies. Under the new measures, overseas professionals who have worked in Shanghai for more than six months will be entitled to a "green card". This would allow cardholders to stay in Shanghai for years.

Currently, overseas professionals are not allowed to set up their own companies in the city unless they have acquired a domestic joint venture partner.

增值税

"Zeng Zhi Shui"

(Value Added Tax)

Tax Deductibility issues for FIEs

With the beginning of the new Financial Year for many FIEs just getting under way, we thought it may be worth re-capping some tax deductibility issues. Similarly, as China moves to limit tax holidays and equalise tax treatment of FIEs and local companies, it is imperative that foreign companies keep up-to-date with new legislation, not only to avoid breaching any regulations or rulings but also to take advantage of tax incentives.

Generally, FIEs may deduct all reasonable expenses and costs incurred or accrued in the current year when calculating income tax liabilities, unless otherwise specifically restricted under the relevant laws, regulations or rulings issued by SAT.

Under Article 19 of the Detailed Rules for the Implementation of the Foreign Investment Enterprises and Foreign Enterprises Income Tax Law (Implementing Regulations on Foreign Corporate Tax Law), the following items are not allowed to be deducted:

- expenses in connection with the acquisition or construction of fixed assets;
- expenses in connection with the transfer or development of intangible assets;
- capital interest;
- various income taxes already paid (which will be credited against tax payable);
- fines for illegal business operation and losses due to the confiscation of property;
- surcharges and fines for overdue payment of taxes;
- the portion of losses due to natural disasters or accidents for which there has been compensation;
- donations and contributions other than those used in China for public welfare or relief purposes;
- royalties paid to the head offices;
- other expenses not related to the production or business operations of the taxpayer.

Aside from the above restrictions on the deductibility of certain expenses and costs, there are other rules concerning the tax treatment of some expenses or losses which specifically apply to FIEs. Foreign companies should be aware of these specific rulings and need to structure their tax planning to take the greatest advantage of the deductions.

营业税

"Ying Ye Shui"

(Business Tax)

消费税

"Xiao Fei Shui"

(Consumption Tax)

所得税

"Suo De Shui"

China to launch Stock Index Futures Trading ...???

It is anticipated that China will probably soon launch stock index futures trading. However, the China Securities Regulatory Commission (CSRC), the government watchdog for the securities and futures industry, has confirmed that there is still no specific timetable for launching stock index futures.

A CSRC official said even a unified stock index for the Shanghai and Shenzhen stock exchange is launched soon, a period of time is needed for its trial operation to test the connections between the new index and the existing Shanghai and Shenzhen stock indices.

Real operation is possible only after the new index is able to fully reflect the market changes and substitute the existing indices. Such a period of time for examination will last at least three to six months. Therefore, it is impossible for launching of the unified stock index futures in the immediate time frame.

Market analysts also point out that China is still weak in technology for monitoring futures trading risks as its futures trading history is still very short. Apart from this, market risk mechanisms have not yet fully been established. Though much work has been done in preparing for launching of stock index futures, including how to prevent risks, the risk and speculation features of stock index futures as a kind of futures are very apparent, and weak technology and capacity for risk monitoring will aggravate market manipulation and speculations.

Asia Pulse, June 3, 2002

"Providing an alternative in China"

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