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China Tax Update – Issue No. 2004.101

Watch Out – The Government May Expose Your Company to Media for Not Paying Taxes on Time

Last week, the State Administration of Taxation (SAT) issued a new circular -- Order No 9 -- to further tighten tax collection and enforcement. Under this new measure, effective January 1, 2005, the local tax authorities are required to name the names of those taxpayers who fail to settle taxes by the due date via newspapers, radio broadcast, televisions, magazines, internet, etc. on a periodic basis.

HIGHLIGHTS:

- ❑ Local authorities are required to make a public announcement on those taxpayers who have an outstanding tax liability past due either quarterly or semi-annually.
- ❑ The public announcement will include information such as company name, address, taxpayer ID number, type of tax and the amount of tax. Furthermore, the name of the legal representative (normally the chairman or CEO of the company), his or her residence ID number, business address, etc. will also be released to media…
- ❑ If the outstanding tax liability amount is less than RMB2mm (~US$250K), the county tax bureau will make the public announcement. Otherwise, the regional tax bureau will take over. And for certain special cases, the provincial government will need to step in …
- ❑ In addition to the negative media exposure, the government will also impose a 0.05%/day late tax payment interest charge and late filing penalty (50% -500%).

OBSERVATIONS:

- ❑ In the past, every six months or so, the Chinese government would publicly send a few people to prison for committing tax frauds. But so far, the government has only targeted a very few well-known individuals (movie stars and tycoons) and big corporations who have intentionally cheated their taxes.
- ❑ However, since the Order #9 only provides a few exceptions (e.g., bankruptcy and liquidation) where the government would not identify the taxpayer in public, some local officials may, at their own discretion, go after all companies who have an outstanding tax due non-discriminatively ...
- ❑ Given the fact that company reputation is at stake, multinational companies (MNCs) ought to be closely monitor their tax filing and payments to ensure full compliance. A public announcement, even at the county level, could be extremely damaging. To make the matter worse, the negative impact could go far beyond China (as for many companies are appointing their senior business leaders based in the US and Europe as the legal representative of their ventures in China) ...

SUGGESTIONS:

- ❑ It would be helpful if multinational companies could (i) conduct a round of internal tax review every quarter to be sure everything is in order; (ii) establish a very positive work relationship with the local tax officials. Good routine communications with the local tax authorities can avoid problems; (iii) benchmark with other companies to learn best practices on how to enhancing tax compliance; and (iv) call us up to check out how our tax professionals can help.

For more information or advice on the above subject or analysis of other tax issues, please contact **Dennis Xu** at (8621) 6335 3630 or send us an email at the address below.

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