

Circular of the State Administration of Taxation Concerning Tax Administration on Permanent Representative Offices of Foreign Enterprises

GuoShuiFa [2003] No.28 March 12, 2003

National and district taxation offices at levels of province, autonomous region, municipality directly under the Central Government and municipality separately listed on the State plan:

For the purpose of further standardizing the taxation administration on permanent representative offices of foreign enterprises, according to the actual situations of the taxation administration on these representative offices, the issues on the implementation of the Circular of the State Administration of Taxation Concerning Tax Administration on Permanent Representative Offices of Foreign Enterprises (GuoShuiFa [1996] No.165) are hereby circularized in the following:

I. About taxation registration and tax declaration of the representative offices

If foreign enterprises establish various permanent representative offices (hereinafter referred to as ROs) in China which deal with various activities in China, these ROs shall make tax registration and declare their operations to the competent administrations of taxation according to relative provisions in the Law of Taxation of People's Republic of China. The ROs exempt from taxation in the light of Item 2 of Article 1 of GuoShuiFa [1996] No.165 and other provisions may declare their annual operations within one month after the end of the year.

II. About tax levied on the ROs.

The ROs engaged in transactions with payable taxes in accordance of Item 1, Article 1 of GuoShuiFa [1996] No.165 shall calculate and pay business taxes and enterprise income taxes according to the following regulations:

- (1)The ROs engaged in the transactions listed in Subitem 2, Item 1, Article 1 of GuoShuiFa [1996] No.165, including commercial operation, law, taxation, accounting and auditing, shall establish and complete account books, correctly calculate incomes and taxable amounts, and honestly declare the taxes.
- (2)For the ROs providing services that listed in Subitem 1,2 & 5 under Item 1 of Article 1 of GuoShuiFa [1996] No.165, including agenting and trading (including trading own products and agenting others' products), which businesses are mainly carried out by requests from their headquarters without directly signing contracts or agreements with the service-receivers, the incomes from the services by the ROs are usually collected by their headquarters. Such incomes of the ROs shall be determined via calculation of their expenditures that will be the basis of levied taxes.
- (3)The ROs engaged in businesses listed in Item 1, Article 1 of GuoShuiFa [1996] No.165, except for the above-mentioned two kinds, shall on schedule declare to the local competent taxation administrations based on their actual business incomes from their business activities, including those collected by the headquarters. If there is no business income in current year, the RO may report its annual business within one month after the end of current year.

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III. About tax exemption for ROs of foreign governments, international organizations, non-profitable institutions and nongovernmental organizations

For the ROs established by foreign governments, international organizations, non-profit institutions and nongovernmental organizations in China, they (or their headquarters, or their higher levels) may apply to local competent taxation administrations (including local district taxation administrations) for tax exemption, and provide the certificate documents issued by governments that testify their natures. Such applications shall be validated by local taxation administration (including local district taxation administrations) to report to the State Administration of Taxation for approval.

IV. About administration and audit on ROs

(1) Local taxation administrations shall strengthen the routine administrations on ROs and establish necessary communication systems to include all ROs into their normal taxation administration.

(2) The competent taxation administration shall carefully check the declaration documents submitted by the ROs, and carry out on-spot audit when necessary. If any operation is found incompliance with that declared in the examination, ROs shall be disposed according to the provisions of the Law of the People's Republic of China on Administration of Levy and Collection of Taxes.

V. This Circular shall enter into force as of July 1, 2003.

If previous provisions are inconsistent with this Circular, this Circular shall prevail.

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