

Tax Calculation Method on the Representative Offices of Foreign Enterprises

Tax circular GuoShuiFa [2003] no.28, GuoShuiFa [1996] No. 165, GuoShuiFa [1985] No.122, and CaiShuiWaiZi (85) No. 200, made clear that representative offices engaged in taxable business activities would be declaration and calculation on tax payable.

1. Actual method

Formulas: Business tax = commission income*5%,

Corporate income tax= (income - expenses)*33%.

Tax payers:

Representative office engaged in business advisory, legal, tax, accounting, auditing or other types of consultancy services and had a sound accounting system, which should calculate the tax payable and tax on the actual income.

2. Cost-plus method

Representative office engaged in related taxable service can calculate the correct revenue generated, which shall apply the cost-plus method to calculate the business tax & corporate income tax. The deemed rate of profit is 10% and the rate of business tax is 5%.

Formulas: business tax = RO monthly expenses/(1-10%-5%)*5%,

Corporate income tax = RO monthly expenses/(1-10%-5%)*10%*33%.

Tax payers

For the representative offices providing services that listed in Article 1,4 & 5 under Item 1 of Article 1 of GuoShuiFa [1996] No.165, including agent advisory and trading (including trading own products and agent advisory 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 representative offices are usually collected by their headquarters. Such incomes of the representative offices shall be determined via calculation of their expenditures that will be the basis of levied taxes.

Regulars on the expenditure:

- (1) Expenditure including payment of wages & salary sourcing from china or aboard, other daily expenditure. The expenditure is advanced paid for parent company without representative office's business activities, which can't be deemed as expenditure of representative office.
- (2) Representative office rented office place without rental that shall be deemed rental expenses according to *the detailed rule for the implementation of the provisional regulation on business tax Notice 15*.
- (3) The average tax payable of fixed assets shall be calculated based on the method of minimum of depreciation period and net value; The period of Depreciation of decoration expenses is 5 years. The depreciation should calculate the tax payable.

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- (4) Interest revenue can't be deducted from the expenses.
- (5) Qualifying charitable cash donations for China can't be included in the total expenses of a representative office.
- (6) For representative office which would be taxed on a cost-plus basis, should calculate the deemed income according to the actual entertainment fee. The entertainment fee deriving income from the expenditure cannot be included in the total expenses as *the detailed rule for the implementation of the regulation on foreign enterprises income tax*.
- (7) Penalty and surcharge which derived income from the expenditure shall be excluded in the total expenses.

3. Deemed income method

Formulas: business tax = income * applicable rate

Corporate income tax = income * 10% * 30%

Tax payer:

The representative offices 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 bus

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