

Salient Points of New Regulations on Corporate Income Tax of Tax Resident Enterprise for Chinese-Capital Controlled Foreign Companies

---- Co-authors: Sharon Zhang; Wei Ding

The “Administrative Measure for Overseas Registered Chinese-capital Controlled Tax Resident Enterprise (“TRE”) (Trial) (“the Measures”) which took effect from Sep 1, 2011, providing comprehensive guidance for collecting Corporate Income Tax (“CIT”) from Overseas TREs in practical proceeding, the salient points of the Measures shall be as follows:

I. Definition of Overseas TREs

The definition of Overseas TREs, is an enterprise registered in accordance with the laws of foreign countries with the main investors being Chinese enterprise or corporate groups and **with its “effective management” located in China.**

II. Recognition of Chinese TRE status

For the ways to determine the Chinese TRE status for a Chinese-Capital Controlled Foreign Companies (“CCCFC”), the Measure does not only to allow CCCFCs lodge their application for Chinese TREs status with Chinese authority, and **also entitles the Chinese tax authorities have the rights to initiate investigation on a CCCFC to determine whether it should be regarded as a Chinese TRE.** The Measure also provides guideline on investigation in practical proceeding.

III. Obligation to pay tax

The Measure stipulates that Deemed Overseas TREs should provide relevant materials to in-charge Chinese tax authorities for tax registration within 30 days from the date of receiving recognition letter of Chinese TRE status. The in-charge Chinese tax authorities shall audit and issue a temporary Tax Registration Certificate also with its duplicate to them.

The Overseas TREs shall declare and pay CIT by the way of provisional quarterly CIT filing and annual filing.