國富浩華稅務（香港）有限公司
Crowe Tax Services (HK) Limited

Cross-Border Tax-Related Practical Sharing (Issue 1)

(October 2023)

Many clients had contacted us in the past, they all encountered tax difficulties. Some clients received letters of inquiry from tax authorities; while others discovered that their current structures did not meet the prerequisites for obtaining tax benefits.

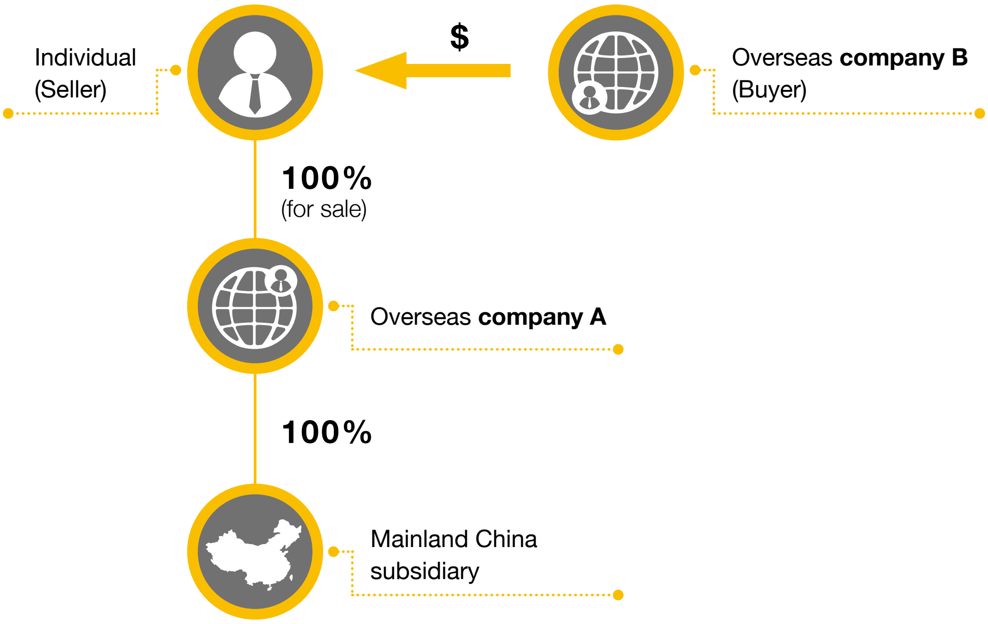
A high-quality tax structure is based on a legally compliant footing. In addition to saving unnecessary tax burdens, it can also significantly reduce the time spent in the tax filing process and the risk of receiving inquiries from tax authorities.

Over the years, we have been exposed to tax issues encountered by clients from various industries, involving a wide range of aspects. We will introduce tax issues commonly encountered by our clients for your reference.

Problems encountered when reporting indirect transfer of taxable property in China

In recent years, mergers and acquisitions between multinational enterprises have become increasingly frequent. When multinational enterprises sell their businesses in Mainland China, those transactions often involve tax declarations for the transfer of Chinese taxable assets. For example, when selling an offshore intermediate holding company, taxable property in Mainland China (such as equity interests in Mainland China subsidiaries) is being indirectly transferred to third-party buyer or related company.

Simplified diagram of situations where clients encounter indirect transfer of taxable property in China:



Many clients do not have an in-depth understanding of Mainland China tax laws. When they receive a request from Mainland China tax bureau to file a tax declaration, they don't know how to handle it or what factors would constitute Mainland China tax liability.

In fact, regarding indirect transfer of Chinese taxable property to related companies, according to the Mainland China tax laws, if certain conditions are met, the safe harbor provisions can be applied without paying tax.

In the situation where Chinese taxable properties are transferred to third-party group, our clients face enquiries from the Mainland China competent tax authorities concerning the Mainland China companies in terms of finance, business operation model, value contribution of the overseas enterprises to the group, whether the transferred enterprises hold intangible assets, and whether the domestic companies own real estate, the respective staffing arrangements of overseas companies and domestic companies, etc. When various forms of enquiries are raised, they have no idea how to handle. Examples are as follows:

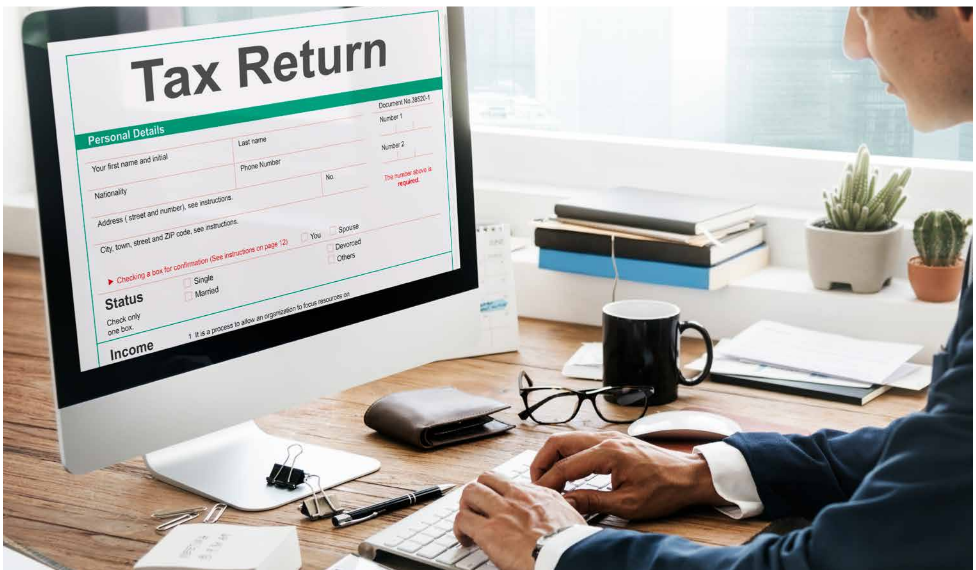
- Difference between the amount of investment in Mainland China company on the overseas company's account and the amount on the Mainland China company's account;

- Personnel and function allocation, as well as business activities of overseas companies and domestic companies, etc.

The Mainland China tax bureau will determine the value of domestic companies and apply a 10% Enterprise Income Tax rate on the disposal gain. If the domestic company has real estate property, Land value-added tax may also be levied.

If multinational enterprises can have a professional and experienced tax team to review their current structure and optimize it in a legal and compliant manner before the above transactions occur, they can usually achieve tax benefits; Or when the tax bureau makes a tax declaration request, the tax team leverage their years of experience to fight for the most favorable tax settlement approach for multinational companies, and to deal with numerous communication and tax declaration work.

We will continue to share the financial, tax, operational and other issues encountered by multinational companies in practical operations in future tax articles for your reference.



Crowe HK’s tax advisory services

Whether you want to venture into China or wish to expand your horizon into other markets, our professional international tax services can offer solutions to meet every need. With expertise and a vast network of member firms consisting of over 200 independent accounting and advisory services firms with 790 offices in 140 countries around the world, we can offer our clients unique local knowledge on a global perspective. We provide advisory services on forming tax efficient structures for operating across multiple jurisdictions with the purpose of assisting our clients to achieve their commercial purposes.

Our services include:

- Structuring for China / Hong Kong inbound and outbound investments
- Tax advisory services for cross-border transactions for China and Hong Kong business operations
- Profit repatriation strategies for investment in China
- PRC tax treaty / arrangement advisory services
- Assisting in applying for approval or record filing in respect of non-PRC resident treaty benefit claim
- Pre-IPO tax planning involving Chinese entities
- Investment strategy from tax efficiency perspective for pre-startup phase of your business
- Pre-consulting on indirect transfer of taxable property in China, and related declaration work (including negotiation with tax authorities)

Our sophisticated tax team members provide high level technical services and innovative solutions to solve complicated and challenging tax matters.

We will be pleased to share our experience and ideas with you to achieve your business objective. If you are interested in our tax services, please feel free to contact our Tax Partner Cyrus Chow by email to cyrus.chow@crowe.hk or by phone at **+852 2894 6835** for enquiry.

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Contact us

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