



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

Cross-Border Tax-Related Practical Sharing (Issue 2)

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Audit / Tax / Advisory

Smart decisions. Lasting value.

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.

In the last issue, we had discussed the problems encountered when reporting indirect transfers of taxable property in China. In this issue, we will discuss the common issues when the local tax bureaus of China and Hong Kong require multinational enterprise groups to substantiate their transfer pricing methods for related party transactions.

Transfer pricing policies of multinational enterprise groups are questioned by tax authorities

Transfer pricing means that multinational enterprise groups use their companies established in different tax jurisdictions to transfer the group's profits to tax jurisdictions with low tax rates, tax exemptions or tax incentives, thereby reducing the group's overall tax burden.

It is not uncommon for large multinational companies to be investigated by tax authorities of various countries for using some tax-free havens to significantly reduce the taxes they need to pay. In the end, they have to pay astronomical taxes.

Nowadays, with the use of information technologies by tax authorities around the world (listed companies are even required to disclose information about their substantial transactions to the public), a lot of information can be easily obtained online compared to a few decades ago when the internet was not yet popular. If multinational enterprise groups still adhere to the unreasonable transfer pricing policies they established earlier, they will definitely face a lot of risks now.



In the past decade, even for unlisted companies, local tax authorities have more frequently requested local group companies to provide audited financial statements, or directly requested relevant information on their related party transactions (such as the relevant contracts, pricing principles, etc.) to review whether they have paid enough taxes.

When some multinational enterprise groups receive inquiries about their transfer pricing policies from the tax bureaus of China and Hong Kong, these policies have been in use for many years and have no reasonable basis at all. There is no basic document to support the rationality of the policies, or there are only simple board resolutions, which state the pricing policies between the related companies involved, but these pricing policies are not formulated in accordance with the requirements of local transfer pricing regulations.

Common transfer pricing methods, such as the cost-plus method, vary from industry to industry. The application of the cost-plus rate normally requires reference to other unrelated party transactions of similar nature.

Using transfer pricing database to find information of comparable listed companies with similar transactions is a verification method often used by tax authorities in various places, that is, to analyze whether the pricing of related party transactions of the tested party is reasonable.

Other frequently asked questions regarding multinational enterprise groups from the tax bureaus of China and Hong Kong are as follows (including but not limited to):

- Staff structure of related companies involved;
- Respective assets owned, functions performed and risks undertaken by each of the group companies involved in the related party transaction;
- Importance of the related party transaction;
- Relevant documents to prove that the transaction is genuine.

In addition to the above questions, tax authorities will tailor different types of questions based on the uniqueness of each group's business model. If a multinational enterprise group fails to properly respond to the tax authorities' questions, it may be levied a considerable amount of tax.



The best approach for multinational enterprise groups is to proactively hire a tax team with professional experience in handling taxation affairs and dealing with tax bureaus before receiving questions from the competent tax bureaus, so as to formulate solutions as early as possible. By setting up reasonable transfer pricing policies for new businesses that have not yet been launched in a compliant manner, this can significantly reduce the risk of being questioned by tax authorities in the long run and at the same time improve tax efficiency.

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 support and expertise from the vast network of Crowe Global 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:

- Providing solutions and negotiating with tax bureaus to reach consensuses when multinational enterprise groups encounter inquiries from tax bureaus on their transfer pricing policies;
- Providing transfer pricing consultation for new businesses planned to be established by multinational enterprise groups;
- Preparing transfer pricing documentations for group companies in China and Hong Kong;
- 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;
- China / Hong Kong tax treaty (or arrangement) advisory services;
- Pre-IPO tax planning involving Chinese / Hong Kong entities;
- Investment strategy from tax efficiency perspective for pre-startup phase of 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 help you 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.





Contact us

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