

## **Stringent Enforcement on Transfer-pricing Rules to Avoid Tax Evasion in China**

Global tax directors have recently regarded transfer pricing as the most important tax issue used by multinational corporations to avoid paying taxes in some jurisdictions. Like China, one of the developing countries on economy, political and legal aspects, is being used by foreign investors as a business operation center among their giant business structure for tax evasion purpose. (Please see below explanation for arrangement of business structure by using transfer pricing to minimizing worldwide tax burden).

Earlier in November this year, a survey team organized by Guangzhou's municipal government released a report on smuggling and tax evasion by foreign-funded entities in Guangdong Province shown that, almost 90% of them are making money under the table and using transfer pricing to dodge tax payments. Due to this reason, the State Administration of Taxation (SAT) issued the second version of the implementation rules for transactions between related parties enterprises. The regulations are meant to resolve transfer-pricing disputes by clearly identifying transactions between companies that have close relations.

Last year, SAT introduced a new regulation that extended the period of transfer-pricing review by tax officials to 3 years, or even 10 years under special circumstances. Cases involving inter-total transactions in excess of USD12,000, or companies including branches or subsidiaries located in a tax haven, will fall into such category for review.

In June last year, SAT also promulgated anti-tax evasion measures, and launched investigations into transfer pricing. Under the promulgated transfer-pricing rules, the obligation is put more on the companies rather than the China's tax authorities. Foreign-funded entities must ensure that they themselves record and maintain all documentation in case they are audited.

However, although China is stepping up efforts to enforce the transfer-pricing rules in cracking down the illegal arrangement of transfer pricing, the problem of tax evasion will not be easily solved due to the inadequacy knowledge and experience in transfer pricing among those tax officials in China.