

A NEW SPECIAL TAX ADJUSTMENT MONITORING AND ADMINISTRATIVE MEASURE

Advanced Alert and Voluntary Tax Adjustment

The SAT released a short bulletin named "The Announcement on Issues Related to Special Tax Adjustment Monitoring and Administration" (SAT Bulletin [2014] No. 54 **Bulletin 54**) on 4 September 2014 which provides an opportunity for the concerned taxpayers to report any tax adjustments on a voluntary basis before the launch of a formal transfer pricing audit. This bulletin was also issued on the SAT's official website with an interpretation of the Bulletin 54 (**SAT Bulletin**).

Specifically, under Bulletin 54, if a local tax authority identifies a potential special tax adjustment/audit (including audits associated with transfer pricing, thin-capitalization and other related anti-avoidance adjustments) against a taxpayer in the course of the taxpayer's inter-company transaction disclosure, documentation review, pre-audit investigation or post-audit monitoring, etc., then:

- the local tax authority should issue a formal tax notice to highlight the related tax adjustment risk for the concerned taxpayer's attention, and to request the taxpayer's submission of the relevant transfer pricing documentation (**risk alert**);
- the taxpayer, on the other hand, is encouraged to conduct a self-review upon receipt of the aforesaid tax notice, and initiate to the tax authority for a voluntary tax adjustment.

As clarified in the Bulletin 54 and SAT interpretation, the Risk Alert issued by a local tax authority should not be treated as a conclusive opinion. If a taxpayer requests for a

conclusive opinion, the local tax authority will be required to undergo the relevant formal audit procedures. If a taxpayer proposes a voluntary tax adjustment, the local tax authority should consider this proposal but could reserve a right for initiation of a formal audit if it is of the opinion that the voluntary tax adjustment is not adequate. However, once the voluntary tax adjustment is made, the taxpayer would be exempted from the 5% punitive late payment interest on the relevant tax adjustment (if any).

Bulletin 54 apparently has provided a new solution for taxpayers to deal with transfer pricing and other anti-avoidance audits. If such alternatives are used by taxpayers properly, they do help taxpayers' significantly reduce the associated administration burden and costs. Since such voluntary tax adjustment is still a new arrangement to the tax authorities and taxpayers, we will keep monitor of how this is implemented in practice.

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