Repatriation and Reinvestment of the Assets of a Foreign Invested Company in China

This report provides a general summary of the operating and financing life cycle of a Chinese subsidiary set up by a European Union (EU) small or medium-sized enterprise (SME). It considers, from the tax and regulatory perspectives, (i) how to finance/capitalise a foreign invested enterprise (FIE)[1]*, (ii) how to extract profits or reinvest them, and (iii) the implications of winding down and liquidating operations. Details of the relevant laws and regulations are supplemented by observations on how FIEs of EU SMEs typically finance themselves and incur operational expenses in practice.*

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[1] The term FIE encompasses both subsidiaries of foreign companies that are 100% owned by the foreign company (the so-called wholly foreign-owned enterprise, or WFOE) and various types of local Chinese entities in which the foreign investor has less than 100% ownership; these take the form of joint ventures (JV), of which the most common is the equity joint venture (EJV).

1. How to Finance/Capitalise an FIE

The decision on how to finance an FIE is influenced by regulatory, tax, and commercial considerations. From a commercial perspective, as discussed below, SMEs will need to be aware, inter alia, of the practical difficulties that they may encounter in securing financing from local Chinese banks, the financing opportunities available through leasing, and the more efficient cash management afforded by cross-border cash pooling. Regulatory requirements limit the extent to which FIEs can leverage their operations, and these will affect SMEs more than larger foreign enterprises, which are permitted to take on more debt relative to their registered capital. From a tax perspective, debt is more tax efficient than equity, but a variety of special requirements must be considered.

1.1. Commercial Considerations

FIEs established by EU SMEs in China typically face a range of challenges in financing their operations. Ultimately, such FIEs will typically be highly dependent on their foreign parent companies for financing, though such cross-border financing can also be restricted, as clarified in the comments on regulatory matters below.

The Chinese banking sector, dominated by state-owned banks, tends to direct its lending towards Chinese state-owned enterprises (SOEs). Chinese SMEs themselves struggle to obtain the financing that they need2. For FIEs of foreign SMEs, the challenges can be even greater. Part of the reason for this is that FIEs tend not to retain substantial cash balances on deposit with Chinese banks. Chinese banks, seeing the dearth of Renminbi (RMB) in the hands of the FIEs, can consequently be reluctant to lend to them.

Financing Risks for SMEs

- Limited market power
- Lack of managerial experience
- High share of intangible assets
- Inadequate accounting track records
- Insufficient assets
- Poor financial disclosure

1.1.1. Cash Balance On RMB Account

Most FIEs of SMEs have historically produced in China for export. Most often, the goods made in China are sold back to the SME or to another subsidiary controlled by the SME before being sold to the final customers. Both for the purposes of limiting the Chinese tax that is imposed and for the purposes of limiting the amount of cash that is trapped in China, it can make sense for the SME parent simply to pay the FIE its costs plus a small mark-up for the exported goods.

Ultimately, then, the FIE will pay its RMB costs (e.g., local salaries, material costs, taxes, etc.) out of its foreign currency registered capital, injected by the parent company and converted to RMB as

[2] The formal commercial banking sector is reluctant to provide loans to private SMEs because of their inherent risk profile. For SMEs, this risk is seen to stem from a variety of sources, including limited market power, lack of managerial experience, a high share of intangible assets, inadequate accounting track records, insufficient assets, poor financial disclosure, etc.

required for expenses[3], and the limited income from its foreign currency sales, converted into RMB as needed for disbursements. This approach to converting foreign currency (from sales or registered capital) to RMB can mean that the FIE of the foreign SME consequently has very low running RMB bank balances. As the FIE does not have a record of holding healthy RMB balances with a Chinese bank and cannot point to a steady RMB cash flow, and as SME parents in the EU are not known to maintain balances in China with the Chinese bank of the FIE, the bank may be reluctant to lend to the FIE.

1.1.2. Account in Hong Kong

Consequently, some foreign companies maintain bank balances with Hong Kong affiliates of the Chinese bank with which their FIE has its China banking relationship. This can be used both to build the banking relationship and as security for bridging loans[4] and loan extensions from the FIE's Chinese bank to the FIE. Speaking of overseas security, obtaining loan guarantees from overseas for FIE loans from local banks has been facilitated by recent regulatory changes (see section below), but the challenges of using domestic bank financing options remain.

1.1.3. Leasing

One financing option that is becoming progressively more attractive is asset leasing. However, a majority of leasing still tends to be funded by the domestic state-owned banks as sale and leaseback arrangements, and, given the focus of the state-owned banks on SOEs, these tend to limit their leasing activity to big-ticket items (e.g., planes, infrastructure), which is not of much assistance to SMEs. SMEs can have recourse to domestic vendor financing/manufacturer captive finance where they are buying equipment locally in some instances, though such arrangements are in an early stage of development. Cross-border leasing can be useful in some instances, and the tax treatment of such arrangements has greatly improved in recent times, but finance leases will use up foreign debt capacity (see the discussion below), so they can only be used to a limited extent.

1.1.4. Debt Factoring And Cross Border Cash Pooling

Other options open to SMEs to bridge the gap in terms of financing include debt factoring, with domestic facilities progressively improving for discounting invoices and letters of credit on export. More effective usage by FIEs of their constrained debt capacity has also been facilitated by new regulations facilitating cross-border cash pooling arrangements. These allow cross-border cash pooling to be combined with cash pooling amongst several domestic Chinese FIEs held by a foreign SME for corporate group-wide cash pooling, though admittedly, this would only benefit EU SMEs that have developed their China operations sufficiently to already have several FIEs.

Going forward, the greater ease with which cash can be moved in and out of China may also increase the confidence and comfort of foreign SMEs in holding group cash balances in banks in China, thus facilitating the building of banking relationships with Chinese banks to support SME operations in China. It might also be noted that, as foreign registered capital can now be converted directly into RMB (without the need to show invoices for particular disbursements) and as exports overseas can now also be denominated in RMB, the likelihood of FIEs having greater RMB balances on hand at any given

[3] In this regard, it might be noted that, until recently, the foreign currency registered capital of a FIE could not simply be converted to RMB; rather, specific invoices for specific RMB disbursements were needed before the conversion was permitted to take place.

[4] Loans used to "bridge" a gap between a debt coming due and the main line of credit becoming available.

time and over time is greater, promising better banking relationships with domestic Chinese banks in future.

1.2. Regulatory Considerations

1.2.1. Limitations On Cross-Border Lending To FIEs In China

Under the relevant Chinese regulations, the maximum possible debt financing of a FIE is restricted to a certain proportion of the "total investment" in that FIE. The "total investment" number is agreed upon with the local department of commerce at the time that the FIE establishment is approved and reflects the foreign parent company's assertion of how much capital will be needed to run the FIE, as adjusted for the views of the local department of commerce (the latter may sometimes insist that more capital will be necessary to run the operations). The total investment amount required by the foreign parent should be backed up by business plan projections included in the feasibility study filed with the FIE setup application to the department of commerce.

For SMEs intending to inject a relatively small amount of capital into their FIE, the regulations will limit debt financing to a correspondingly lower level. See the table below.

Total Investment Amount In USD	Minimum Registered Capital In USD
$3 million or less	70% of the total investment amount
>$3 million but < $10 million	50% of the total investment amount, but no less than $2.1 million
>$10 million but < $30 million	40% of the total investment amount, but no less than $5 million
>$30 million	33% of the total investment amount, but no less than $12 million

1.2.2. Regulatory Attractions Of Financing A FIE With Debt

There are a number of cash trap issues with equity financing that speak in favour of having at least some financing by way of debt.

Chinese corporate laws and regulations stipulate reserve requirements. For instance,

- The regulations require 10% of after-tax profits to be allocated by a FIE[5] each year to a statutory general reserve (allocations must continue to be made each year until the reserve hits 50% of registered capital);
- A proportion of profits may also be allocated each year to an employee incentive reserve and a welfare reserve, though this proportion may be determined by the FIE at its own discretion.

These reserves cannot be distributed and are effectively trapped until the company liquidates. It is also practically impossible to reduce the registered capital of a Chinese company until liquidation. To the

[5] Including a WFOE or an equity JV.

extent, then, that a shareholder loan provides a mechanism to extract cash (through interest and principal payments) and limits the amount allocated to the reserve[6], the shareholder loan has a certain advantage.

Regulatory developments over the past two years have facilitated lending into China. In particular, whereas individual State Administration of Foreign Exchange (SAFE) approvals were previously needed for practically every step involved in lending into China and repaying the loan principal and interest (e.g., set-up of bank account, individual loan draw-downs, repayments, etc.), these approvals have now largely been scrapped[7]. Now, a new loan from a foreign parent to a FIE needs to be registered only once with SAFE, and subsequently, the FIE must solely deal with the relevant bank.

Furthermore, until recently, a challenge for debt financing existed insofar as, if medium- or long-term loans came to term and had to be repaid, the "debt capacity" represented by that loan would be exhausted and there would be a permanent lowering of the "borrowing ceiling" for the FIE. Recent regulatory changes allow such loans to be extended or refinanced without reduction in the debt capacity.

1.2.3. Cash Pooling Within A Group

As noted above, the effective usage by FIEs of their debt capacity has also been enhanced by new regulations[8] facilitating cross-border cash pooling arrangements. Combining existing onshore cash pooling arrangements between FIEs, together with cross-border cash pooling[9], allows for the external borrowing requirement of the group of companies headed by the SME to be limited. This is achieved by arranging for surplus cash sitting in the bank account of one of the companies in the group to be used by another group company that has a need for the cash. The "borrowing ceilings" of all the group's China FIEs can be summed to determine how much the China cash pool header can borrow from overseas. In addition, newly relaxed regulations allow surplus cash in China to be lent out to overseas group companies, up to 30%[10] of all the equity of the subsidiaries combined.

Complementing the cash pooling facility are new regulations allowing an individual FIE in China to make outbound payments on behalf of other FIEs in China ("payment on behalf of" or "POBO") and to receive inbound payments on behalf of other FIEs in China ("Receipt on behalf of" or "ROBO"). This might be relevant where the EU SME has a number of FIEs in different parts of China (e.g., FIEs in Beijing, Shanghai, Chongqing etc.). Debit and credit balances arising between the local FIEs as a result of one making payments for another are facilitated by entrustment loans under domestic cash pooling arrangements. Furthermore, tax regulations have been updated to ensure that these arrangements do not create difficulties for obtaining tax deductions. As noted, though, these cash pooling arrangements will largely benefit the more limited number of SMEs that have several China FIEs.

[6] The profits with reference to which the reserve contributions are calculated will be reduced by interest payments.
[7] SAFE Circular 19 (2013).
[8] Cross-border cash pooling is now permitted to be conducted by FIEs anywhere in China, as SAFE Circular 324, issued in November 2014, has expanded nationwide a pilot cross-border cash pooling program that was initially only available to FIEs in the free trade zones (FTZs).
[9] A pool may have a foreign company or a FIE as a cash pool header for RMB, foreign currency, or both.
[10] Such outbound lending is only recently allowed under Huifa 59 (2012) and Huifa 2 (2014).

1.2.4. Upcoming Regulatory Changes To Affect Cross-Border Financing

On the whole, then, recent years have seen substantial progress in facilitating the debt financing of China FIEs. A new foreign investment law (FIL), anticipated to take effect in 2017, is also expected to bring with it significant improvements to the debt financing framework. The FIL should abolish the distinction between foreign invested entities and domestically invested entities such that foreign investors will cease to use the special entities provided for under the WFOE Law, the various Chinese-foreign joint venture (JV) laws, and the foreign invested partnership (FIP) law and will instead simply use the Chinese limited liability company (LLC) and the standard partnership in the same manner as Chinese investors. As the regulations covering Chinese-owned entities do not limit the degree to which a company or partnership can leverage its operations, it is generally understood that this will lead to the abolition of the limits on FIEs' borrowing capacity.

At the same time, recent regulatory changes have come very close to scrapping[11] the long-standing prohibition on FIEs using borrowings or registered capital from overseas to acquire Chinese enterprises. These rules had effectively ruled out[12] the consolidation of all of the Chinese FIEs owned by a foreign company, under an onshore Chinese holding company. Once the final steps are taken and the use of onshore holding companies becomes widespread, this will help with the recycling and re-use of onshore cash within FIEs for operations and re-investment. Taken together with the anticipated removal of the "borrowing ceiling" for FIEs with the new FIL, from a tax planning perspective, this is also likely to facilitate debt-pushdown arrangements for greater tax efficiency.

It is also worth noting in passing that, as the regulations on lending into China have been easing, those regulations dealing with supplying registered capital to Chinese entities have also been eased. A series of 2014 changes abolished the requirement for a company to have a minimum amount of registered capital and the set timeframe that had existed for paying the registered capital contributions. The changes also removed the requirement for a given proportion of registered capital to be in the form of cash. The latter change makes it easier to contribute capital into a Chinese enterprise by way of non-financial asset transfer, including intellectual property (IP), where the foreign parent is comfortable doing so from an IP protection perspective.

1.2.5. Local China Market Financing Solutions

Regulatory changes implemented in May 2014[13] have facilitated the guaranteeing by foreign parent companies of the domestic bank loans provided to their FIEs in China. However, as foreign guarantees to secure such financing are counted as part of the FIE foreign debt quota, this means that it is not possible for FIEs that have already used up their foreign debt quota to obtain further financing. As noted above, the final abolition of the FIE foreign debt quota will be very welcomed when it occurs, particularly for SMEs, given the low levels of debt relative to registered capital that they are currently permitted to assume.

[11] Circular 19 (April 2015) replaced Circular 142 (2008), allowing FIEs to convert their FX capital into RMB at any time of their choosing.
[12] There is a Chinese holding company (CHC) regime, but the extremely high levels of registered capital required to set up a CHC have effectively ruled out the use of onshore holding companies for all but the very largest international corporate groups.
[13] SAFE Foreign Exchange Administration Rules on Cross-border Security and its corresponding implementation guidelines (Hui Fa [2014] No. 29).

1.3. Tax Considerations

1.3.1. Corporate Income Tax Deductions And Indirect Tax Leakages

Financing by debt is more tax efficient than financing from equity, as interest payments from loan may be tax deducted, whereas dividends on registered capital would not be tax deductible i.e., an interest payment of RMB 100 gives rise to a tax savings of RMB 25 (standard CIT rate is 25%). To the extent that the interest payment is then taxed at a lower rate in the country of the borrower, this can lower the overall effective tax rate of the SME's group. This could occur if the SME parent is subject to a lower tax rate than 25% in its own country or if the SME parent arranges for lending out of one of its subsidiaries that benefits from a low tax rate. For larger groups (more rarely for SMEs), this is sometimes achieved by setting up a centralised treasury/finance company in a low-tax country or a country with a preferential tax regime for such companies.

However, the benefits of the CIT deduction are somewhat offset by the withholding tax (WHT) of 10% (i.e., an interest payment of RMB 100 gives rise to a WHT amount of RMB 10) and business tax (BT) of 5% (5.6% with local surcharges in Beijing) (i.e., an interest payment of RMB 100 gives rise to a BT amount of RMB 5.6), both of which must be withheld from the gross amount of the interest payment. Gross-basis taxation is a problem because it does not take into account the actual margin made on lending[14].

The indirect tax leakage is temporarily set to increase from 1 October 2015, as, upon the move from the business tax (BT) to a value added tax (VAT) on interest payments, the tax will go up to 6% (6.72% with local surcharges) (i.e., if an interest payment is RMB 100, VAT amount of RMB 6.72 will be paid instead of the BT amount of RMB 5.6). However, there are potential tax treaty reductions in WHT on interest, and these could make group treasury arrangements more tax efficient. In this regard, going forward, many foreign groups are likely to look to Hong Kong as a treasury centre. This is encouraged by the low 8.25% Hong Kong profits tax rate on the interest income available under the new corporate treasury centre regime and the lower 7% WHT rate on interest available under the China-Hong Kong double taxation agreement (i.e., an interest payment of RMB 100 gives rise to a WHT amount of RMB 7 under the agreement). However, as observed, the scale of the EU SME's operations would likely need to grow beyond a certain level before such arrangements might be considered worthwhile.

1.3.2. Interest Deduction Limitations

Balancing against the tax benefits of debt financing, it should be noted that the Chinese thin capitalisation provisions restrict CIT deductions where related party debt exceeds registered capital in a ratio of 2:1. While the limits under Chinese corporate law on leveraging FIEs means that the thin capitalisation rules are rarely much of a problem in practice at the present time, the anticipated relaxation of the "borrowing ceiling" for FIEs means that the interest deduction limitations will have a greater impact in future (as it may be possible for companies to borrow above the 2:1 tax thin capitalisation limit, bringing these rules into effect).

[14] E.g., if EUR 100 in interest is paid from the China FIE to the overseas treasury company and this treasury company must pay EUR 85 on the financing that supports loan to the FIE, then it will have a profit of EUR 15. This profit will be completely eliminated and more by the EUR 15.60 in CIT WHT and BT withheld (calculated as 15.6% of the gross EUR 100 interest paid), and this is even before consideration of taxes in the treasury company location.

Furthermore, the Chinese tax authorities are progressively putting into effect the new internationally agreed-upon tax best practices and minimum standards emerging from the G20/OECD Base Erosion and Profit Shifting (BEPS) global tax reform initiative, and one of these changes is much stricter interest deduction rules. The proposed OECD minimum standard would demand that interest deductions in a year be limited to a percentage of the annual earnings (earnings before interest and tax, EBIT), with excess deductions being carried forward.

Indications are that interest deductions will be limited to 10% of EBIT, though a higher amount of interest might be deductible if the Chinese FIE is less heavily leveraged than the overall group falling under the SME at a global level. This would mean that a FIE with an EBIT of EUR 100 in a year and interest payments of EUR 20 could only deduct EUR 10 and would have to carry forward EUR 10 to future years. China looks set to introduce such rules from 2016, and these would need to be factored into decisions on financing China FIEs going forward.

2. Operating Expenses of FIEs

2.1. Typical Operating Costs For FIEs

FIEs may be registered with the Chinese authorities as consulting, trading, or manufacturing companies. A few notes on the typical costs incurred by such enterprises are set out below.

- Mandatory obligations for all such FIEs will include the employer social security obligations. Such obligations have also applied to expatriate staff in most cities since 2011 (though not yet in Shanghai). Where the Chinese employees are employed via a labour agency, then social security contributions can be handled by the latter, and it will be added to the charge levied on the employers.

- In the case of employees sent to China from Germany and Korea, special agreements between China and the governments of these countries can exempt employees sent from these countries from the need to make certain Chinese social security contributions. Such agreements are the social security equivalent of tax treaties and are called “totalisation agreements.” However, as China only has such agreements with the aforementioned countries, expatriates from other countries will generally have to pay Chinese social security contributions, and this may lead to “double contribution” alongside contributions in their home countries.

- The social security rates applied vary across provinces and municipalities and consist of six elements: pensions and medical, maternity, injury, and unemployment insurance, as well as contributions to the housing fund (only for Chinese employees). The total contributions (employer and employee, leaving aside the housing fund contributions) can come to approximately half of the employee’s income in the larger cities, with the employer generally carrying the burden of about three-quarters of the contributions and the employee bearing the remainder.

- There is, however, a cap with reference to which the contributions will be calculated, set at three times the average city wages. For example, in Beijing, the reference salary is approximately EUR 30,000 (three times the estimated average wage in Beijing of approximately EUR 10,000). Consequently, for Beijing employers, their social security contributions will level off at approximately EUR 10,000 per employee per year, which is 32.8% of the EUR 30,000 reference salary. Housing fund contributions come on top of this, and, of course, employers will also need to withhold employee part of social security contributions and individual income tax from their salary and remit it to the authorities.

- Beyond mandatory contributions, consideration may be given to the typical costs incurred by the three different types of FIE. A consulting company may be established to serve a wider business of the foreign SME and typically has simpler operations than either the manufacturing or trading FIE. The consulting FIE's typical expenses would include salaries (including bonuses and benefits), rentals and office maintenance (cleaning, printing, electricity, etc.), travel costs for staff, IT and communications costs, information subscription services, entertainment for clients, auditing and advisory fees, interest on loans and insurance, and taxes. Taxes would typically include VAT (BT for consulting services having been phased out) and local surcharges thereon, CIT (including WHT on outbound payments), and a stamp duty on contracts concluded.

- The trading FIE might incur these expenses and, to a greater degree than the consulting FIE, advertising expenses and other selling costs, as well as the cost of goods sold. Warehousing and logistics expenses would also feature, as may royalties for brand IP. On the tax front, customs duties and possibly a consumption tax (depending on the product) would also have to be handled.

- The manufacturing FIE would add to the expenses above additional items associated with its more complex operations. Depreciation on fixed assets or leasing expenses would clearly be much more significant items. There would be further expenses on raw materials and other components, associated storage and transportation costs, and payments for technology licenses and/or research and development (R&D).

- Given the extent to which manufacturing requires the use of land and buildings, costs associated with acquiring and retaining land use rights would increase. In particular, on land and building acquisition, a deed tax would arise, with land use and real estate taxes arising through every year of the holding period and a land appreciation tax applying upon disposal (alongside CIT, VAT/BT, and the stamp duty). When manufacturing (and related distribution/processing) occurs at multiple sites in China, branch tax registrations at multiple locations in China will be necessary, with consequent VAT and CIT complexity.

Typical Operating Costs For Consulting FIEs

- Salaries (bonus and benefits)
- Rentals and office maintance
- Travel costs for staff
- IT and communication costs
- Information subscription fees
- Entertainment fees for client
- Auditing and advisory fees
- Interest on loans and insurance
- Taxes (VAT / BT, CIT, Stamp Duty etc.)

Typical Operating Costs For Trading FIEs

- Advertising and selling costs
- Costs of goods sold
- Warehousing and logistics expenses
- Royalties for brand
- Taxes (customs duty, Comsumption Tax etc.)

Typical Operating Costs For Manufacturing FIEs

- Depreciation on fixed assets or leasing expense
- Expenses on raw materials and other components
- associated storage and transportation costes
- Payments for technology licenses and / or R&D development
- Taxes (Land Use Tax, Real Estate Tax, Land Appreciation Tax, VAT, CIT ect.)

3. Making Operating- and Financing-related Cross-border Payments Out of China

Payments from an FIE out of China in relation to financing (dividends or interest), services, or license fees lead to significant administrative, regulatory, and tax complexities, and these are considered below.

3.1. Dividends and Interest

3.1.1. Remittance Procedures For Dividends And Interest

Dividends can be made out of financial statement retained earnings, but only to the extent that earnings have not been required to be placed in the statutory reserve (discussed above). High rates of accounting depreciation can also affect the accounting retained earnings and can also lead to cash traps.

To the extent that dividend payments can be made, the dividend remittance procedures must be considered. For payments of less than USD 50,000, the dividend payer can go directly to the bank and make the remittance, with the bank reviewing relevant documents (e.g., a board declaration of dividend, audited financial statements, etc.) prior to processing the remittance. For payments greater than USD 50,000 a tax recordal procedure[15] is applied as set out in the diagram below.

Documents Submitted To Bank (Dividend & Interest)

Payment Not Greater Than USD 50,000 (Payment Registration Procedure Is Not Needed)	• Board declaration of dividend or dividend/interest calculation • Articles of association • Audited financial statements • Other documents required by the bank (*Please note diffrent banks may have various requirements)
Payment Greater Than USD 50,000 (Payment Registration Procedure Is Needed)	• Payment registration form with tax authority's stamp (obtained from payment registration procedure) • Other documents required by the Bank (*Please note diffrent banks may have various requirements)

Application Procedures for Remittance of Dividends

Obtain Relevant Audited Financial Statements

↓

Complete Annual CIT Filing

↓

Conclude Board Resolution On The Declaration Of Dividends

↓

Register The Board Resolution With In-charge STB

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Withhold The WHT At 10%

↓

Recordal Of The Dividends Remittance With In-charge STB.

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Remit The Residual Amount After WHT To Overseas Shareholder Via Bank

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[15] SAT Announcement [2013] No. 40.

The tax recordal procedure has since July 2013 replaced the previous procedure under which a pre-approval from the tax authorities was needed prior to remittance so that a tax clearance certificate could be presented to the remitting bank. Without the tax clearance certificate, no remittance would be processed by the bank, and the tax authorities could hold up the payment indefinitely if they disputed the amount of tax that was to be paid.

Under the new tax recordal system, the tax authorities simply stamp a taxpayer recordal form to confirm notification by the taxpayer, allowing a remittance to be made with the bank immediately. However, in practice, it has been found that many tax authorities treat the tax recordal as a tax pre-approval, refusing to stamp the form until the tax amount has been agreed to and paid. Knowledge of local tax authority practice in the FIE's locality is therefore very important.

Under domestic law, dividend WHT must be retained at 10% by the FIE and remitted to the tax authorities (i.e., out of a EUR 100 dividend payment, the FIE pays EUR 90 to the SME parent and EUR 10 to the tax authorities), though this can be reduced to a lower percentage under the terms of certain tax treaties between China and other countries (see further details below).

It is worth noting that the pre-approval process for dividend WHT treaty relief is set to transition in the very near future to a system under which the withholding agent/payer determines whether to apply tax treaty relief and the tax authority follows up later if it considers that treaty abuse has occurred. It is hoped that the abolition of treaty relief pre-approvals will nudge all remaining tax authorities to drop any remaining hindrances of speedy remittances out of China.

Procedures for the remittance of interest are much the same as for dividends. The same considerations apply to tax recordals prior to remittance procedures at the bank. Likewise, the new treaty relief system should see further improvements in interest remittance processing. It is worth noting, though, that WHT treaty relief for interest applies in a different set of scenarios compared to dividends.

3.1.2. Treaty Relief for Dividends And Interest

For dividends, most of the better Chinese tax treaties will reduce the dividend WHT from 10% to 5% when the shareholder holds more than 25% of the equity of the FIE. Tax authority guidelines[16] require that certain "commercial substance" must be in evidence at the shareholder company level (i.e., employees and other business activities). The guidelines also require that the shareholder does not have an obligation to distribute most of the income received, that the shareholder has actual real control over the underlying shares, and that a reasonable level of tax is applied by the shareholder's country.

For interest, some treaty interest WHT exemptions are available for government-owned or supported lenders, and in some cases, treaty interest WHT reductions are available for foreign banks lending to China. Otherwise, only a few treaties (e.g., with Hong Kong and Belgium) offer interest WHT reductions (10% to 7%) when parent companies lend to their subsidiaries in China. The same tests apply as for dividends to the lender with respect to the availability of tax treaty relief, with an additional requirement that there be no back-to-back loan agreements in place.

[16] SAT Circular 601 (2009).

With the new treaty relief system set to abolish treaty relief pre-approvals, the payer will only have to consider whether the basic terms of the treaty relief are satisfied by the foreign company (e.g., the shareholder holds more than 25% of payer shares for dividend relief) with the more complex criterion being an input into tax authority follow-up procedures (details of these matters will be included by the foreign enterprise on a special form for tax authority consideration). This should greatly facilitate access to treaty relief.

As discussed briefly above, it should be noted that interest deductions can be limited if the debt to equity ratio of an FIE exceeds 2:1 under the thin capitalisation rules. In practice, the rules tend not to affect SMEs often insofar, as (i) few SMEs would be able to leverage themselves up to this level given the regulatory constraints and (ii) it is possible to supply the tax authorities with a thin capitalisation report, showing that the quantum of interest payments was at an “arm’s length” amount. However, in future, it appears likely that the PRC tax authorities may adopt the OECD BEPS proposals on interest deductions, limiting the annual interest deduction to a percentage of EBITDA with the excess carried forward, and this may need to be balanced against the new debt tax planning possibilities being opened up by the progressive regulatory relaxation.

3.2. Service And License Fees

Remittance of service and license fees by an FIE out of China, while it does involve many of the same considerations as for interest and dividends, brings additional levels of complexity in relation to characterising income for WHT purposes, permanent establishment risks, transfer pricing, and customs duty issues.

3.2.1. WHT And Permanent Establishment Issues On Remittance

Service Fee Vs Royalty Tax Characterisation of Payments

Payments out of China associated with technology licenses (patents, know-how, etc.) are subject to WHT at 10% on the basis that they constitute royalties for tax purposes. Difficulties can arise if the FIE, having entered into a license agreement with an overseas related party for the use of intellectual property (e.g., copyrights, trademarks, and patents) or an agreement for the import/lease of customised equipment, also then enters into technical service agreements with the overseas related parties. In such cases, the service provision (under the technical service agreements) may be argued by the tax authorities to constitute the transfer of know-how and be subject to royalties WHT.

License Fees

- Patents, know-how
- Brand IP (trademarks, etc.)
- Treated as royalties and subject to WHT

Service Fees	•Provision of technical support services •Risk that technical services viewed as connected with IP license agreement or supply of equipment •Services of training, machine installation, design or marketing services, and trouble-shooting advice may give risk (as below) •Transfer of know-how can be treated as royalty and subject to WHT

This is linked to the tax authorities' description[17] of know-how as "proprietary technologies," including (non-publicised) information or materials of a technical nature that are required for the manufacturing of products. Such assertion by the tax authorities may even be made in cases where there is no parallel import of licensed technology or customised equipment, as well as potentially in cases where the FIE is not involved in manufacturing.

Consequently, taxpayers must be careful with respect to training services, machine installation, design or marketing services, and trouble-shooting advice, as written deliverables (e.g., formulae, designs, drawings, procedures, and methods) or evidence of accumulated skills and experience in the hands of a licensor firm's professional personnel could be viewed as know-how that assists the licensee of the legally protected intellectual property or lessee of the equipment to use that property/equipment in the manufacture, promotion, or sale of goods.

Services from related parties fall particularly under suspicion given that assisting/training staff from other group entities may be presumed by the authorities to possess experience with and knowledge of the wider foreign group's unique technology and customised equipment and processes. Prudent contracting might separate the agreements for services into those dealing with activities that can be proven purely "routine" in nature (e.g., IT support or generic skills training) from those that cannot be proven not to involve the transfer of know-how (which may be bundled into the licensing agreements).

Obtaining such a contracting right is very important, as disagreements with the tax authorities on this treatment can lead to complications and delays in remitting service fees from China. As noted above regarding dividends and interest, tax authorities can refuse to stamp the remittance tax recordal forms that must be presented to the bank to process payments if they disagree with the taxpayer's tax characterisation and consider that WHT should be applied to the payments as royalties. The banks, in turn, may decline to process service fee payments if these have been agreed upon with the tax authorities to constitute royalties for technology import but no formal technology import registration[18] with the local department of commerce has been made.

[17] Guoshuihan [2009] No. 507.

[18] Technology transfer arrangements are required under the amended Administrative Measures Governing the Registration of Technology Import and Export Contracts [2009] to be registered with the local ministry of commerce (MOFCOM) within 60 days after the contract takes effect.

Documents Submitted To the Bank (Service & License Fees)

Payment Not Greater Than USD 50,000 (Payment Registration Procedure Is Not Needed)	• Contract or agreement • Other documents required by the bank (*Please note diffrent banks may have various requirements)
Payment Greater Than USD 50,000 (Payment Registration Procedure Is Needed)	• Payment registration form with tax authority's stamp (obtained from payment registration procedure) • Other documents required by the Bank (*Please note diffrent banks may have various requirements)

Permanent Establishment Risk from Staff Presence in China

A further matter that requires care is the risk that engineers, technicians, or other staff sent to China in connection with service provision do not stay so long as to create a service permanent establishment risk. China's tax treaties typically set the time limit at 183 days within a 12-month period, with the presence of different staff members on connected projects being aggregated. Some older treaties provide for a six-month rule, which some authorities interpret as being as little as a presence of one day each month over the course of a six-month period.

Care needs to be taken that, where the presence of staff unavoidably exceed the treaty-defined time limits[19], the staff are formally seconded to the FIE, and detailed contracting and operating protocols are put in place to avoid any permanent establishment risk for the overseas entity. Consideration is also often given to splitting up service contracts for offshore and onshore services to quarantine the permanent establishment risk to the contracts for onshore services.

While, as noted above, there has been a move to a "tax recordals" system for remitting payments out of China, many local tax authorities around China still require a filing to be made if treaty permanent establishment protection is to be enjoyed. Disagreement with the tax authorities on the application of permanent establishment taxation can hold up remittances.

Regarding tax treaty relief for royalties, the same "substance" and other requirements for treaty relief as outlined for dividends and interest are relevant, with the new treaty relief system set to facilitate relief claims. However, the use of IP holding companies has been hit by the strict substance requirements, and the use of IP holding companies is under even greater stress because of the developments in transfer pricing rules outlined below.

[19] Under domestic law, even very short presences could give rise to a tax "establishment."

3.2.2. Transfer Pricing Considerations

Very challenging transfer pricing considerations present themselves in relation to payments by FIEs to overseas-related parties for IP and services. The latest developments sit alongside long-standing basic difficulties with the Chinese transfer pricing regime, such as the flat denial of deductions for any payments labelled as management fees.

China as a "Special" Place for Determining Transfer Pricing Treatment

As has widely been reported, a significant shift in Chinese transfer pricing practice has been gathering steam over the last five years. The Chinese tax authorities now insist that greater profits must be booked to Chinese manufacturing, distribution, and R&D service entities. This is argued on the basis that a "market premium" arises for distributors from China's expanding consumer base and that cost savings can be realised by foreign companies' manufacturing and contract R&D operations because of the use of China's supplier network clusters and pool of low-wage, technically educated workers. These are collectively referred to as location-specific advantages (LSAs).

Furthermore, it is asserted that, through the experience of making goods and/or building market share, the local Chinese subsidiaries of foreign companies are creating new intangible assets or contributing to the value of the intangible property registered by the foreign company overseas, which demands that more of the profits of the foreign group must be allocated to China. Thus, the Chinese tax authorities would argue, for example, that, as the ongoing production at Chinese facilities creates "production IP," it simultaneously decreases the value to the FIE of overseas know-how that is no longer needed.

Previously, tax authorities had generally been willing to accept transfer pricing reports justified the pricing fees under related-party IP licensing arrangements with reference to third-party licensing arrangements that are observable in the marketplace (with little scrutiny applied by the authorities to how comparable the arrangements were). The authorities at that time would accept royalty rates as long as they did not exceed a rule-of-thumb rate (i.e., reference rates that the tax authorities would use for given industries and given types of IP).

Steadily Tougher Transfer Pricing Enforcement

A more sophisticated and assertive approach first emerged in relation to loss-making FIEs, with the Chinese tax authorities posing a simple question: why would the Chinese operations license the IP in the first place if they cannot achieve any economic gain from licensing the IP? This campaign resulted in the unwinding of losses by many FIEs (or denial of their tax loss carry-forwards). The campaign has subsequently been carried forward to challenge even profitable FIEs in cases where the companies overseas within the same corporate group are even more profitable. In such cases, a claim is made on the profits in the corporate group's overseas value chain on the basis of the LSAs and local market intangibles[20] detailed above.

In relation to IP, China's new approach is drawing on the DEMPE (development, enhancement, maintenance, protection, and exploitation) functions concept that has emerged from the OECD BEPS

[20] A classic example typically cited concerns the licensing of the Head & Shoulders trademark. Chinese tax authorities have argued on numerous occasions that the trademark is not worth much, if it is not useless, when Head & Shoulders' Chinese name bears no resemblance to its English name, even if Head & Shoulders is printed on the shampoo bottles.

process. This plays down the role of financing IP development and emphasises other functions in determining where the profits from developing and using IP are allocated. An important difference is that, while developed countries may emphasise where DEMPE functions are controlled from, China may emphasise where they are performed, and if ongoing production and sales activity in China points to enhancement and exploitation of the IP in China, then the country may demand greater profit allocation to China.

Not only is it demanded that more revenue be booked to the China entities but payments by the latter to overseas-related parties for services and royalties will be viewed with scepticism and potentially denied tax deductions. A sharply negative towards approach to outbound payments of royalties and service fees to “low-function” foreign-related parties has recently emerged.

Transfer Pricing For Payments to “Low-Function Entities”

SAT Announcement 16 (released in March 2015) provides that, if the tax authorities find that a foreign company within the international corporate group to which a Chinese subsidiary pays royalties for the licensing of intangibles just holds the legal rights to the intangibles and did not contribute (through research or other efforts) to the value of the intangibles, then the authorities will deny a tax deduction for the payment. Although the intention of this article is to counteract BEPS, if exploited inappropriately, it may affect many sub-licensing arrangements where the IP is licensed via a sub-licensor that may not have contributed to the development of the IP but simply manages the IP licensing arrangements on behalf of the ultimate licensor, even if the royalty is ultimately taxed at the licensor level.

At the same time, Announcement 16 also lays out a range of circumstances in which payments by a Chinese subsidiary to a foreign company within the international corporate group for services from that foreign company are to be denied tax deductions. Broadly, if the foreign company rendering the services does not appear to have much in the way of substance, or if the services are deemed not to be needed by the subsidiary (because either the subsidiary does the relevant tasks itself already or the value of the services to their business is questionable), then no tax deduction is allowed. Announcement 16 allows tax adjustments going back 10 years and could have a significant retrospective impact on existing FIE operations.

Since its introduction, Announcement 16 has been used by different divisions within tax authorities to advance their own agendas, such as deterring outbound remittances altogether, which has not only exacerbated FIE tax positions but also, more importantly, their cash flow positions, although Announcement 16 was intended to be a tool to manage FIE transfer pricing arrangements. There are also many measures in Announcement 16 that are unclear; for example, the retrospective application may well be used to adjust the pricing of a transaction that was in compliance with the transfer pricing rules before the BEPS initiative but is no longer fit for the purpose in the post-BEPS world. However, we are sure that the Chinese tax authorities’ positions on outbound payments have become much more aggressive and sophisticated over the past few years and that FIEs should not expect such practice to subside in the short to medium term.

3.2.3. Customs Duty

Beyond CIT, the use of foreign IP in Chinese operations can result in customs duty implications. Imports of materials, products, tools, and machinery for use in innovative industries in China will all be subject to a customs duty (though exemptions[21] can be provided for the import of tools and machinery used in certain preferred innovative industries).

However, reaching beyond this, customs authorities can assert that the payment of royalties is linked to the import of goods and machinery and insist on a customs duty being levied on the value of the royalty payments as well. A clear example of this would be where the importer cannot contractually purchase the imports without paying certain royalties. Beyond this, customs authorities have argued that the technology paid for as royalties under the license agreement is in fact "embedded" in the imported goods or equipment. As such, a proper calculation of the customs duty must include this royalty amount.

Customs authorities have even been known to go so far (in a similar fashion to the tax authorities) to argue that service agreements involve the transfer of production or marketing intangibles/know-how, that these intangibles are embedded in the products/imported machinery (or were used in the overseas processes that led to their creation), and, in consequence, that the customs duty should apply to these amounts too.

In response, taxpayers have sought to show that payments under license/service agreements related to technology/know-how that was solely used in domestic production/marketing processes carried out in China. Alternatively, they have sought to show that the same components/equipment may be sourced from third parties and thus that the international corporate group's proprietary technology/know-how licensed from related parties should not be automatically linked to such components/equipment.

This is indeed a highly complex area regarding the use of foreign IP in China, and it is made more difficult by the fact that the tax authorities administering the transfer pricing rules and the customs authorities administering the customs rules may have different points of view on the correct prices to use. The tax authorities may expect to see a high profit attributed to China operations; consequently, a FIE may commission a transfer pricing analysis that supports a low value being put on imports used in generating those profits, leaving more profit in China. At the same time, this may be unacceptable to the customs authorities, as a low price put on imports lowers the amount of customs revenue that they can collect. Striking the balance is a challenging task, achievable only by applying a rigorous methodology, preparing good-quality supporting documentation, and maintaining good relations with the tax and customs authorities.

3.2.4. VAT

The transition to VAT for license fee payments (as well as for any service payments that the tax authorities may choose to treat as payments for know-how and subject to WHT) substantially eliminates the indirect tax cost of licensing in China. However, cash flow burdens can be created by the need to pay the VAT before an offsetting input credit can be claimed. To the extent that licenses/services are subjected to a customs duty, the customs office may impose an import VAT on the full value of the imported technology, while the tax authorities again impose the VAT on each individual payment, a double VAT outcome. Input VAT credit should, it is hoped, be ultimately claimable for these VAT impositions, but some enterprises have sought to work out arrangements with the tax authorities to avoid the second VAT imposition.

[21] Notice of the State Council on the Adjustment of Tax Policies for Imported Equipment, Guo Fa [1997] Document No. 37.

3.3. Reinvestment by FIEs

To the extent that profits of a FIE are not distributed out of China as dividends or paid out by way of interest or a service or license fee, then it is possible to use retained earnings to increase the registered capital of a Chinese subsidiary of the FIE. However, insofar as restrictions remain on FIE borrowing (domestically or from overseas) to invest in the equity of another enterprise or to use its registered capital in another Chinese enterprise, FIEs are limited in the degree to which they can set up and finance local subsidiaries in the first place. A China holding company (CHC) regime does exist, but the required registered capital for establishing such enterprises (USD 30m) is extremely high, so the regime is not really workable for SMEs. However, regulatory changes[22] are moving rapidly towards relaxing restrictions on FIEs obtaining capital for making local equity investments, so this is likely to become a more viable option in the future.

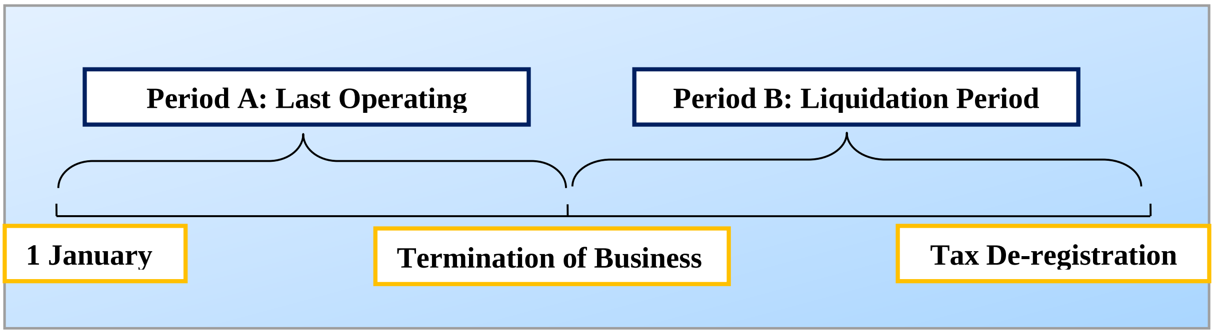
Regarding an FIE using excess retained earnings to invest in a foreign subsidiary, while this might be conceivable (subject to obtaining local department of commerce approvals, etc.), it would be rare for an FIE to hold a foreign subsidiary given the tax inefficiencies that this would imply, as well as the administrative and regulatory burden. As noted above, as new regulations allow surplus cash in China to be lent out to overseas-related companies of an FIE, up to 30% of the equity, this is the preferred option for extracting cash from China when it is not distributed or paid out under a service agreement.

4. Wrapping Up Operations – Liquidation

When an SME decides to wind up operations and liquidate its China FIE, a number of considerations come to the fore.

First, as FIE capital reduction and repayment are virtually impossible, return of the registered capital of a FIE as well as trapped, non-distributable reserves will require liquidation. At the same time, liquidation gives rise to tax costs in the shape of the deemed disposal of assets, as well as tax risks arising from a liquidation tax audit. Consequently, the question of whether liquidation is desirable should be carefully considered.

For tax purposes, the suspension of operations and commencement of liquidation triggers a new tax period. Taxes must be settled for the last operating period (this is a CIT filing with the tax authority in charge within 60 days after the enterprise suspends its operation) and then subsequently for the liquidation period.



[22] SAFE Circular 19 (April 2015) allows FIEs to convert their FX capital into RMB at the time of their choosing.

Liquidation income is determined[23] by aggregating gains/losses from actual and deemed disposal (at the realisable market value) of all assets together with the gains/losses from the transfer/settlement of loans. This is then reduced by writing off the remaining expense provisions/capitalised expenditures and offsetting carried-forward tax losses. The residue is taxed at 25%, and a liquidation CIT filing is made.

As part of the liquidation procedures, a liquidation report and tax verification report issued by a Certified Public Accountant/ Chartered Tax Adviser (CPA/CTA) firm will be required by competent authorities. In some cases, the authorities may also request a valuation report issued by a CPA or Chinese valuation firm.

It should be noted that, if an FIE is availing of a special low tax rate prior to the commencement of the liquidation period (e.g., the 15% rate for high and new technology enterprises – HNTE), then it may consider disposing of assets prior to liquidation to avail of that rate, as opposed to the 25% rate that will apply after liquidation commences.

4.1. Remitting Liquidation Proceeds Out Of China

The WHT treatment of liquidation distributions[24] remitted out of China depends on which amounts are determined to be dividends, return of capital, and capital gains.

The dividend amount is the sum of the accumulated retained earnings and surplus reserves of the FIE, and this will be subject to WHT at 10%, subject to reduction under a suitable tax treaty. As noted above, a reduction in WHT on dividends to 5% should be available under most of China's better treaties.

The amount equivalent to investment costs would be treated as return of capital and not subject to WHT. The remaining distributable amount, after the dividends and above the return of capital, could be regarded as capital gains and subject to a 10% WHT. Under virtually all of China's treaties, there is no reduction in WHT on capital gains when the foreign disposer holds more than 25% of the equity of the FIE (the exception being the Ireland treaty). Consequently, it can make sense to dispose of all assets and have the resulting gains booked to accounting reserves prior to liquidation so that the relevant amounts can be distributed as dividends and benefit from tax treaty WHT reductions.

4.2. Deemed Asset Disposals And Liquidation Tax Audit

Disposals of assets prior to and in the course of the liquidation will give rise to CIT on gains, a stamp duty, VAT/BT, and surcharges. Furthermore, to the extent that land use rights/real estate are disposed of, a land appreciation tax will be imposed. At the same time, certain types of relief may be available.

To the extent that the FIE has intangible property, its transfer will be subject to CIT, VAT, and a stamp duty. However, as there is an exemption for patented technology transfers, some consideration might be given to patenting the technology (where possible) prior to transfer. According to the CIT law, within a tax year, the portion of income from technology transfer that does not exceed RMB 5 million shall be exempt from CIT; the portion of income that exceeds RMB 5 million shall enjoy a 50% reduction. In

[23] Per SAT/MOF Circular 60 [2009].

[24] The amount that can be distributable to shareholders on a liquidation = Realizable value or FMV of all the assets – liquidation expenses – outstanding salaries – pensions and social insurance – severance payments - CIT on liquidation gain – historical outstanding taxes – debt payments.

addition, the FIE may also be eligible for VAT exemption for patent/technology transfer, provided that the FIE can obtain a registration certificate issued by the provincial technology administration authority and conduct the prerequisite recordal filing with the tax authority in charge.

If the operations of the existing FIE are actually being transferred to another FIE, then merger/reorganisation relief may be considered, which can provide relief from CIT, BT, and VAT arising on the cessation of the old FIE.

It is worth noting that, during the liquidation period, the tax authorities in charge will typically conduct a tax audit for the historic operation period of the FIE (a minimum of three years) and verify whether there has been any under-paid tax. All under-paid taxes (if any) must be settled in full before the company can be liquidated. In particular, previous claims of tax relief and special treatment (e.g., the HNTE incentive) may be reviewed to confirm that they were properly qualified for. Certain types of relief (e.g., tax holidays and customs exemptions on imports of equipment) may be clawed back if operations cease within a certain timeframe after their initial grant.

5. Summary

As outlined above, for an EU SME, managing the financial, tax and regulatory implications of setting up and operating a Chinese FIE requires detailed preparation and care in implementation:

- Domestic financing from Chinese banks may be difficult for the Chinese FIE of an EU SME to obtain, and while certain techniques and measures are available, the FIE will generally be highly reliant on financing from its EU SME parent. The liberalisation of regulatory and foreign exchange rules are making such cross-border financing easier than before, but, for the moment, the limits on the leveraging of FIEs come into effect at a fairly low level of indebtedness for SMEs. Debt is tax advantaged over registered capital and facilitates dealing with China cash traps, though SMEs should monitor upcoming rule changes for interest tax deductibility.

- Making payments of dividends, interest, service fees, and royalties out of China requires the consideration of numerous factors. While recent regulations have detached the bank remittance process from the tax clearance process, this has not been fully implemented around China, and prior awareness is needed on whether the tax authorities in a given locality will still require tax matters to be settled prior to endorsing remittance. Tax treaty relief, which has become much harder in recent years, is set to become more workable again under upcoming new regulations, though it may take some time for the new system to be settled. For service and license fee payments, many tax issues arise, including the risk of service fees being treated as royalties with consequent customs duty and CIT withholding tax implications. Great care is consequently needed with the relevant contracting, alongside the planning needed to avoid permanent establishment exposures and deal with VAT issues.

- Winding up operations via liquidation may be necessary to recover the capital and part of the accumulated profits of an FIE, but the tax exposures arising upon liquidation, and the potential for the tax authorities to reopen previous tax assessments on their final tax audit must be borne in mind.

6. List of applicable legislation mentioned in this report

Foreign Exchange

Circular on easing of conditions for lending into China, Hui Fa [2013] No. 19, issued by the SAFE on 28 April 2013
Circular on cross-border cash pooling, Yin Fa [2014] No. 324, issued by the People's Bank of China on 1 November 2014
Circular on permitting outbound lending, Hui Fa [2012] No. 59 and Hui Fa [2014] No. 2, issued by the SAFE on 19 November 2012 and 10 January 2014
Circular on allows FIEs convert foreign exchange capital into RMB at time of choosing, Hui Fa [2015] No. 19, issued by the SAFE on 30 March 2015
Circular on eased rules on using foreign security to guarantee domestic borrowing, Hui Fa [2014] No. 29, issued by the SAFE on 12 May 2014

Taxation

Corporate Income Tax Law of the People's Republic of China, Presidential Decree No. 63 of the People's Republic of China, issued by the National People's Congress of the People's Republic of China on 16 March 2007
Circular on tax recordal procedure for outbound remittances, SAT SAFE Notice [2013] No. 40, issued by the SAT and SAFE on 9 July 2013
Circular on how to understand and recognise the "Beneficial Owner" in DTAs, Guoshuihan [2009] No. 601 ("Circular 601"), issued by the SAT on 27 October 2009
Circular on definition of know-how for applying WHT to outbound payments, Guoshuihan [2009] No. 507, issued by the SAT on 14 September 2009
Circular on restrictions on deductions of outbound payments of service and license fees, SAT Notice [2015] No. 16, issued by the SAT on 18 March 2015
Circular on customs exemption on imported equipment, Guo Fa [1997] No. 37, issued by the State Council of the People's Republic of China on 29 December 1997
Circular on liquidation taxation calculation, Cai Shui [2009] No. 60, issued by the Ministry of Finance and SAT on 30 April 2009

Corporate Law

Wholly Foreign Owned Enterprise (WFOE) Law, Presidential Decree No. 41 of the People's Republic of China, issued by the National People's Congress of the People's Republic of China on 31 October 2000
Chinese-Foreign Joint Venture (JV) Laws, Standing Committee of the National People's Congress Decree No. 7, revised by the National People's Congress of the People's Republic of China on 15 March 2001
Foreign Invested Partnership (FIP) Law, Presidential Decree No. 55 of the People's Republic of China, issued by the National People's Congress of the People's Republic of China on 27 August 2006
Foreign Investment Law, in draft, anticipated release in 2017

The EU SME Centre helps EU SMEs prepare to do business in China by providing them with a range of information, advice, training and support services. Established in October 2010 and funded by the European Union, the Centre has entered its second phase which will run until July 2018.

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