Bulletin 11 in action

13 April 2018

In February of this year, we reported a new tax development in China (Bulletin 11) affecting Sino-foreign cooperative education institutions and programs. Bulletin 11 came into effect a few days ago on 1 April 2018.

A Chinese university in Beijing that was about to make payments to a U.S. university for fees due under a Sino-foreign cooperative educational program (CEP) inquired with the Central State Administration of Taxation (SAT) in China on whether income taxes need to be paid on the payments. The SAT replied by citing Bulletin 11, stating that all Sino-foreign cooperative educational institutions without legal person status and CEPs will automatically have a deemed permanent establishment in China and be required to pay enterprise income tax on any revenue they receive. The deemed profit rate mentioned in the SAT's reply was 30 percent. The headline enterprise income tax (EIT; which is the equivalent of corporate income tax in the U.S.) rate in China is 25 percent and with a deemed profit rate of 30 percent, the total EIT burden is 7.5 percent. This EIT burden is in addition to the value-added tax and local surcharges that most U.S. universities are already paying in China.

There are still a lot of uncertainties on the enforcement of Bulletin 11. One immediate point from SAT's reply that raised eyebrows is that a deemed 30 percent profit rate seems excessive especially given most U.S. colleges and universities have non-profit status. The minimum deemed profit rate is 15 percent under the relevant Chinese tax regulations. In the Nottingham case (which we reported on in August 2016), Ningbo Tax Bureau applied the minimum 15 percent deemed profit rate by taking into consideration the non-profit status of Nottingham University in the UK.

Please contact our authors for more details about this development.

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