

# China alert

## Tax and regulatory developments

TAX

September 2006, Issue 26

## Business scope upgraded for foreign-invested China holding companies

### In brief

- Supplementary rules were recently issued to extend the business scope of China holding companies, cementing their advantageous position
- This issue of China alert introduces the key updates covered by the regulations

### Relevant regulations discussed in this issue:

*Supplementary Regulations for Foreign-invested Holding Companies*, Decree (2006) No. 3, issued on 26 May 2006 by the Ministry of Commerce, effective from 1 July 2006 (Decree 3)

Over the past two years, the China government has issued various regulations to promote and facilitate investment in and business operations of foreign-invested enterprises (FIEs). Some, such as the *Measures for the Administration of Foreign Invested Commercial Enterprises* and the revised *Company Law*, have represented major relaxations of prior policies.

In order to keep pace with these regulatory developments, the Ministry of Commerce (MOFCOM) issued Decree 3 on 26 May 2006. The purpose of Decree 3 is to enrich the function of China holding companies (CHCs) by updating their business scope in accordance with new regulations. It also helps to clarify some of the uncertainties regarding their status. Hopefully, the advantageous position of CHCs will be maintained and reinforced.

### Highlights

#### Strategic investment by CHCs

The scope of investment allowed by CHCs has been extended to include strategic investment into public listed companies in China. CHCs will be regarded as foreign shareholders of the listed companies.

#### Service outsourcing

CHCs are now allowed to provide services to overseas enterprises under a service outsourcing agreement, which previously was limited to services provided to its parent company or related companies.

#### Distribution and trading

- Prior to the formal operation and production of their invested enterprises in China, CHCs can import similar products manufactured by any overseas manufacturers for trial sales

## Contact us

For more information on these new regulations and how they may affect your company, please contact:

### Beijing/Qingdao

Khoonming Ho  
Tel. +86 (10) 8508 7082  
khoonming.ho@kpmg.com.cn

### Shanghai

John Lee  
Tel. +86 (21) 6288 1819  
john.lee@kpmg.com.cn

### Chengdu

David Ko  
Tel. +86 (28) 8673 3888  
david.ko@kpmg.com.cn

### Hangzhou

Martin Ng  
Tel. +86 (571) 2803 8081  
martin.ng@kpmg.com.cn

### Guangzhou

Bolivia Cheung  
Tel. +86 (20) 3758 9283  
bolivia.cheung@kpmg.com.cn

### Shenzhen

Christine Chung  
Tel. +86 (755) 2547 1112  
christine.chung@kpmg.com.cn

### Hong Kong

Peter Kung  
Tel. +852 2826 8080  
peter.kung@kpmg.com.hk

purposes. Previously, this was limited to products manufactured by parent companies.

- CHCs can now entrust domestic manufacturers to produce or process self-made products or other products manufactured by parent companies for sale at home or abroad. Previously, only CHCs with Regional Headquarters status were permitted to do this.
- The annual ceiling based on a certain percentage of the paid-in capital, which set a limit on import products for trial sale and accessory products for system integration, is now removed.

### CHCs with Regional Headquarters status

CHCs with Regional Headquarters status can now:

- Undertake operating leases and financial leases, with approval by MOFCOM
- Export products produced by toll manufacturing
- Upon approval of the foreign exchange authority, CHCs with Regional Headquarters status with the function of finance centre can perform centralised management of foreign exchange funds for related companies in China
- Similarly, an offshore bank account can be opened by the CHC with Regional Headquarters status to perform centralised management for the foreign exchange fund of its overseas related companies and its related companies in China for overseas lending purposes.

### Schedule for capital contribution

The schedule for capital contributions by CHCs has been revised according to the revised *Company Law*. CHCs are required to make full capital contributions within five years of the issuance of a business license. However, the minimum registered capital of USD 30 million is still required to be contributed within two years of the issuance of business license.

### Annual records with MOFCOM

Annual records of investments and operation status with the central MOFCOM are to be filed by CHCs by 1 June each year, instead of within 3 months after year-end.

**By David Ling, Partner and Maggie Cao, Senior Manager**

All issues of China alert are accessible on [www.kpmg.com.cn](http://www.kpmg.com.cn) or [www.kpmg.com.hk](http://www.kpmg.com.hk)

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2006 KPMG Huazhen, a Sino-foreign joint venture in the People's Republic of China and a member firm of the KPMG network of independent member firms affiliated with KPMG International, a Swiss cooperative. All rights reserved.

KPMG and the KPMG logo are registered trademarks of KPMG International, a Swiss cooperative.