

# China Tax & Investment News



## ***The Ernst & Young Guide on Provisional Corporate Income Tax Filing and Payment by Branches Basing on the Latest Instructions Issued by the State Administration of Taxation***

### **Background**

Regular readers of our China Tax & Investment News (the “News”) would not find the filing and payment of Provisional Corporate Income Tax (“CIT”) by branches an entirely new topic. We have, in two of our previous issues (viz., Issue No. 2008002 and 2008004), already shared with you the new provisional CIT return forms and some general requirements stipulated in two previous circulars (Guoshuihan [2008] No. 44 and Caiyu [2008] No. 10) issued by the relevant authorities.

This issue is our third release on the same topic following the announcement of a new circular (Guoshuifa [2008] No. 28, hereinafter referred to as Circular 28) by the State Administration of Taxation (the “SAT”) on 10 March 2008. Unlike the general requirements covered by previous circulars, Circular 28 makes available more detailed and taxpayer-centric procedures. With this last piece of the jigsaw puzzle, we are ready to finally put together for you a picture showing the what, when and how of provisional CIT filing for branches. We will guide you step by step by answering the following questions that may be in the minds of many finance executives:


- Does my company need to participate in branch tax filing?
- If yes, which branch needs to participate?
- What data need to be collected by the head office and branches?
- What actions need to be taken by the head office, and when?
- What actions need to be taken by branches, and when?

As most enterprises will be filing quarterly provisional CIT returns at the latest by 15 April 2008, we hope this issue of the *News* comes in as a handy guide in leading your journey through the untrodden territories of branch CIT filing.

### **The Provisional CIT Filing Guide**

#### ***Step 1 – Determine if your company needs to participate in branch tax filing***

A company that has a branch (or branches) carrying on business outside of the province, autonomous region or central government administered city (hereinafter collectively referred to as “Province”) where the company is registered will need to comply with the new regulations governing provisional CIT filing and payment by branches.



For example, if your company is registered in Dongcheng District, Beijing City, and has two branches, one in Xicheng District, and the other in Haidan District, you do not have to follow branch provisional CIT filing and payment procedures because your branches are in the same Province. The Dongcheng headquarters will file a consolidated provisional CIT return and make one tax payment in Dongcheng District.

However, if your company is registered in Beijing and has a branch in Shanghai, you should proceed to Step 2 below and prepare yourself for the new branch provisional CIT filing and payment procedures.

### *Step 2 – Determining which business unit(s) to be included*

Not all branches are required to participate in the allocation of total provisional CIT payable and pay provisional CIT locally. The following are excluded:

- A group of 14 enterprises the CIT from which belongs entirely to the central government (the four central government owned banks, railway enterprises, postal enterprises, Sinopec, Sinochem, CNOOC, etc.)
- Second tier or below branches (i.e., those supervised by a branch, not the headquarters)
- First tier branches (i.e., those supervised directly by the headquarters) which have no stand-alone manufacturing and/or business capacities, **and** pay no turnover taxes (e.g., value-added taxes and business taxes) locally, **and** mainly perform auxiliary functions (such as after-sale services, internal R&D, warehousing, etc.)
- Branches of enterprises recognized as Small Profit Enterprises in the previous year
- Overseas branches established by resident enterprises in Mainland China
- New branches (which will not participate in the allocation in the year of establishment)
- De-registered branches (which will continue to participate in the allocation in the year of cessation and will be excluded in the following year)

However, please note there are some special considerations relating to headquarters as follows:

- First tier branches established in the same Province of the headquarters will participate in the same manner as branches outside the Province
- If a headquarters has a department having stand-alone manufacturing and/or business capacities, the department will participate as if it were a stand-alone branch provided that the total revenue, the total salaries and wages, and the total assets (collectively referred to as the “Three Determining Factors”) of the business department can be separately quantified from the general management department

Having ascertained the participating “branches”, you are now ready to move to step 3.

### Step 3 – Collecting data

You need to understand the basic principles governing branch CIT filing and payment before determining what data you must collect to comply with the branch filing requirements. The basic principles are:

- An enterprise should calculate provisional CIT payable on a consolidated basis either monthly or quarterly. *As most of our readers would be on a quarterly filing basis, we will, in the remaining sections of the News, assume the filing is done quarterly*
- 50% of the consolidated provisional CIT payable will be paid by the headquarters at the location where the enterprise is registered. Out of this 50%, 25% goes to the account of the local city (to be split in the ratio of 60 : 40 between central government and the local city) and the remaining 25% goes to the central government account (to be split countrywide basing on established allocation mechanism)
- 50% of the consolidated provisional CIT payable will be payable by all participating “branches” identified in Step 2 above locally (again to be split in the ratio of 60 : 40 between central government and the local city) using an allocation formula which is reproduced below


$$\text{Branch payment ratio} = \frac{\text{Revenue of a branch}}{\text{Total revenue derived by all branches}} \times 35\% + \frac{\text{Salaries and wages of a branch}}{\text{Total salaries and wages of all branches}} \times 35\% + \frac{\text{Total assets of a branch}}{\text{Total assets of all branches}} \times 30\%$$

- The headquarters will need to complete and file a Tax Payment Allocation Return Form (hereinafter referred to as the “TPAR Form”). A sample of the TPAR Form is attached as Appendix 1
- Both the headquarters and the branches will need to file a quarterly provisional CIT return form, a sample of which is attached as Appendix 2

Please study the TPAR Form now and ensure you have all data ready at both the enterprise and branch levels to properly fill in all fields in the form. In brief, the headquarters must collect for the enterprise and participating branches the information on the Three Determining Factors.

For the purpose of arriving at the Three Determining Factors, “total revenue” in general means all realized income arising from the sales of goods and the provision of services; “total salaries and wages” means all types of reward given to employees in return for their services and “total assets” means economic resources that can be measured in monetary terms except intangible assets.

Please now proceed to study the provisional CIT return form. You will notice there are three alternative bases for estimating provisional CIT payable, viz., Actual, Last Year’s Average and Deemed. Except the Actual basis, the other two require a pre-approval by the supervising tax authority. You should determine which basis your enterprise will be using and ensure that you have all the necessary data available to fill in the relevant fields on the provisional CIT return form. If you choose the Actual basis, be prepared that both the headquarters and the branches may be required to file financial statements and other financial data to show the actual profits for the quarter.



Besides collecting data necessary to complete the required forms, the headquarters should collect relevant details of all first tier branches (regardless of whether they will participate in branch CIT filing) as well as the respective postal codes and addresses of the supervising tax authorities for those first tier branches for submission to the supervising tax authority at the headquarters location. The design of the exact data collection mechanism to be used is left to the discretion of the supervising tax authority, hence readers should be prepared for slight variations.

Each branch should report details of its headquarters, supervising and subordinate branches (if any) to its supervising tax authority. Again, the design of the exact data collection mechanism to be used is left to the discretion of each tax authority and slight variations are expected.

For January to June, the Three Determining Factors for the year before last year should be used. For July to December, the Three Determining Factors for last year should be used instead. For 2008, readers should therefore be prepared to supply details of the Three Determining Factors for both 2006 and 2007 to the supervising tax authority to start off the first reporting exercise.

A special calculation method applies in case of tax rate difference amongst the headquarters and participating branches. The headquarters should therefore ascertain the applicable CIT rate of each participating branch before it can complete the TPAR Form correctly.

Now that all necessary data are available, you are ready to start off the actual filing of provisional CIT returns as described in Step 4 below.

#### *Step 4 – Filing of provisional CIT returns*

The headquarters should complete provisional CIT filing within 10 days after the end of each quarter. Please see Appendix 3 for a diagrammatic illustration of what forms and data to be submitted by the headquarters to the supervising tax authority at the registration location of the enterprise, and what to be supplied to each participating branch.

Appendix 3 also depicts what each participating branch has to file to its supervising tax authority.

Besides the TPAR Form, the provisional CIT return form and the supporting document thereto, the headquarters and participating branches also need to supply other data to their supervising tax authorities for administrative purposes. The submission of these data is illustrated diagrammatically in Appendix 4.

#### **What Remains Unclear**

First tier branches which do not have stand-alone manufacturing and/or business capacities and only provide internal auxiliary functions (after-sale services, internal R&D, warehousing, etc.) without paying any value-added tax or business tax are not required to participate in the provisional CIT filing. However, it is uncertain whether or not this type of non-operating branches need to file any nil returns to their in-charge tax authorities.



## Action Items

In view of the imminent 2008 first quarter provisional CIT filing at both the head office and branch locations, all companies should immediately carry out the following procedures:

- Clarify with their tax authorities the basis for filing the 2008 first quarter provisional tax returns
- Confirm with the tax authority in charge of headquarters whether or not segregation of book-keeping for operating and administrative departments is required
- Confirm with tax authorities in charge of the non-operating branches whether or not filing of nil return is required
- Start collecting the required postal codes, addresses and the Three Determining Factors of head offices and branches for the years 2006 and 2007
- Modify, if necessary, the current financial data collection system and tax payment system in order to be in compliance with the new requirements

The procedures described above, in particular those relating to timelines, data to be supplied, calculations and allocation methods, are based on information available so far and inferences from a careful reading of the new return forms and various circulars. Readers are reminded that, because of insufficient information on hand, they should be prepared for further changes or different interpretations by the tax authorities.

As the new filing requirements are equally new to taxpayers and tax officials, close liaison with the in charge tax authorities at all locations is critical. We expect there may be certain areas and special situations that may require further clarification or guidance from the tax authorities. In case of doubt, it is advisable to seek professional advice and services.

Appendix 1 – TPAR Form

中华人民共和国企业所得税汇总纳税分支机构分配表

分配比例有效期： 年 月 日至 年 月 日 税款所属期间： 年 月 日至 年 月 日 金额单位：人民币元(列至角分)

总机构情况	纳税人识别号	总机构名称	三项因素			分支机构分摊的所得税额		
			收入总额	工资总额	资产总额	合计	分配比例	分配税额
分支机构情况	纳税人识别号	分支机构名称	收入总额	工资总额	资产总额	合计		

纳税人公章： 主管税务机关受理专用章： 年 月 日  
 会计主管： 受理人： 年 月 日  
 填表日期： 受理日期： 年 月 日

国家税务总局监制

## Appendix 2 – Provisional CIT Return Form

### 中华人民共和国 企业所得税月(季)度预缴纳税申报表(A类)

税款所属期间： 年 月 日至 年 月 日

纳税人识别号：□□□□□□□□□□□□□□□□

纳税人名称：

金额单位：人民币元(列至角分)

行次	项 目	本期金额	累计金额
1	<b>一、据实预缴</b>		
2	营业收入		
3	营业成本		
4	利润总额		
5	税率(25%)		
6	应纳所得税额(4行×5行)		
7	减免所得税额		
8	实际已缴所得税额	——	
9	应补(退)的所得税额(6行-7行-8行)	——	
10	<b>二、按照上一纳税年度应纳税所得额的平均额预缴</b>		
11	上一纳税年度应纳税所得额	——	
12	本月(季)应纳税所得额(11行÷12或11行÷4)		
13	税率(25%)	——	——
14	本月(季)应纳所得税额(12行×13行)		
15	<b>三、按照税务机关确定的其他方法预缴</b>		
16	本月(季)确定预缴的所得税额		
17	<b>总分机构纳税人</b>		
18	总机构	总机构应分摊的所得税额(9行或14行或16行×25%)	
19		中央财政集中分配的所得税额(9行或14行或16行×25%)	
20		分支机构分摊的所得税额(9行或14行或16行×50%)	
21	分支机构	分配比例	
22		分配的所得税额(20行×21行)	

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法定代表人(签字)： 年 月 日

纳税人公章：

代理申报中介机构公章：

主管税务机关受理专用章：

会计主管：

经办人：

受理人：

填表日期： 年 月 日

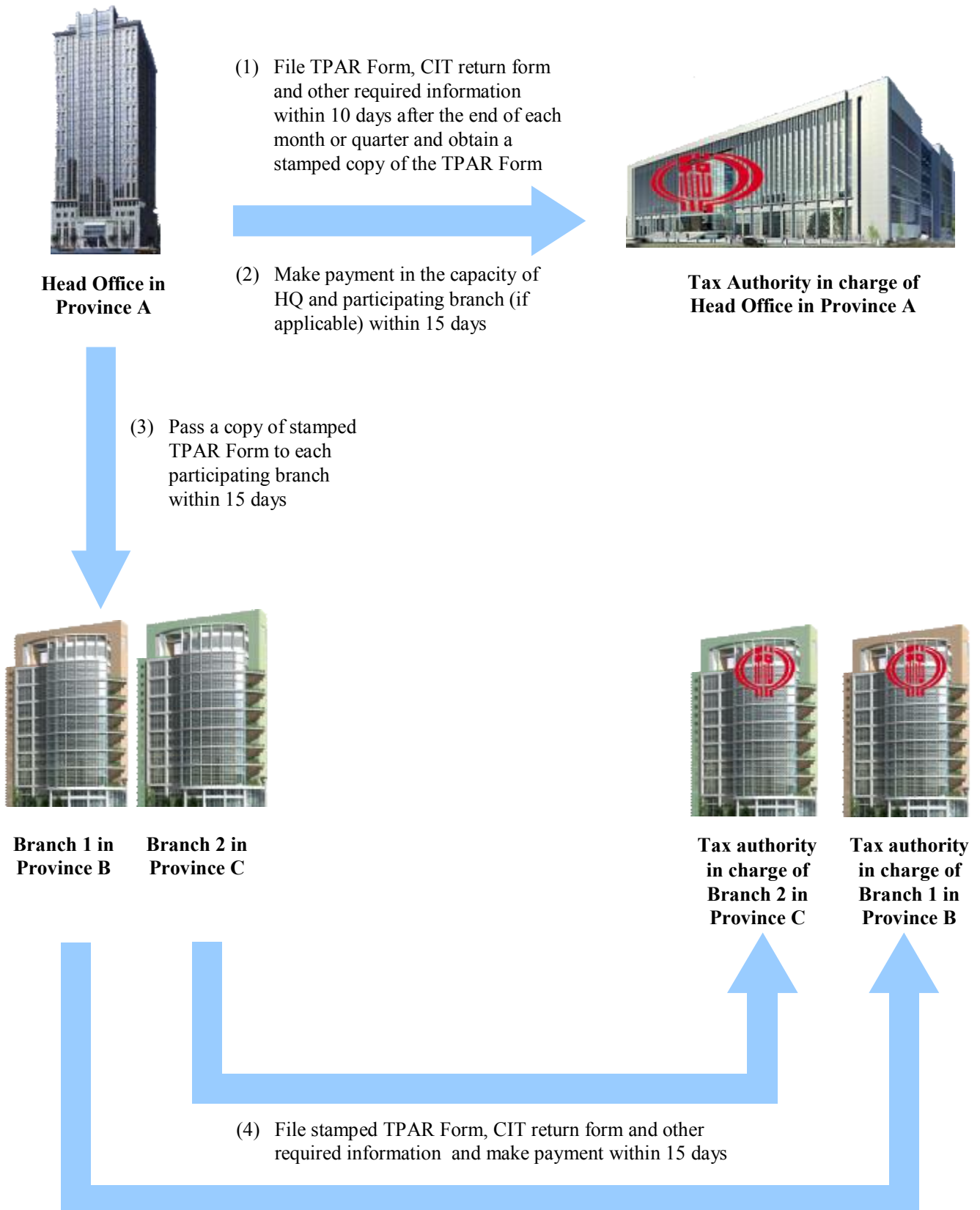
经办人执业证件号码：

代理申报日期： 年 月 日

受理日期： 年 月 日

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### Appendix 3 – Provisional CIT Filing Procedures

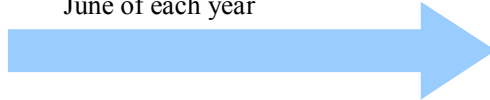


**APPENDIX 4 – Additional CIT Administrative Procedures**



**Head Office in Province A**

(1) Submit TPAR Form on or before 20 June of each year



**Tax Authority in charge of Head Office in Province A**

(2) Distribute TPAR Form to each branch



**Branch 1 in Province B**

**Branch 2 in Province C**

(3) Distribute TPAR Form through information exchange system or by mail



**Tax authority in charge of Branch 2 in Province C**

**Tax authority in charge of Branch 1 in Province B**

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