



## The first two Advance Pricing Arrangements (APAs) signed by the Lead Enterprise Administration Department (LEAD) in China

### Regulation discussed in this issue:

- Measures for Administration of Taxation on Large Enterprises (Trial Implementation)

### In brief

Under the leading effort of the LEAD, currently the two large enterprises selected by the China government have successfully signed unilateral APAs (UAPAs) with the State Administration of Taxation (SAT) in China. These are the first APAs signed with the selected large enterprises after the establishment of the LEAD. Such arrangements demonstrate that the LEAD is functioning to serve taxpayers in a way to allow group companies in different locations to enjoy consistent tax treatments.

### Background

The SAT set up the LEAD in 2008, which is responsible for providing tax support services to large enterprises, including the supervising and controlling of tax resources, conducting anti-tax avoidance investigations, negotiation and signing unilateral APAs. The LEAD has assigned 45 enterprises (groups) as designated contacts including 10 foreign enterprises. In 2009, the LEAD issued the 'Measures for Administration of Taxation on Large Enterprises (Trial Implementation)', which reinforced tax monitoring and management on large enterprises. It is not uncommon that Multinational enterprises are exposed to the risk of double taxation during transfer pricing investigations on their related-party transactions. The conclusion of APAs is an important factor for the mitigation of such risk.

### China current APA status

In October 2010, the first edition of the 'China APA Annual Report' was issued, which provides case background and relevant data on the APAs signed by the SAT between 2005 and 2009. The Report describes details the advantages to taxpayers and the SAT on the signing of APAs. Moreover, it reveals that the

SAT has been allocating more resources on liaising and conducting APA cases, which may imply a foreseeable growth in the level of activities related to UAPAs and bilateral APAs (BAPAs) in China.

### **Characteristics of the two APAs**

These two APAs are signed by the SAT designated contact enterprises. Their related-party transaction amounts and tax payables are far more than the general taxpayers'.

### **KPMG Observation**

During the negotiation of an APA, enterprises can discuss with tax authorities on tax treatments for some special transactions, which may happen in the future. Generally, the negotiations of UAPAs are handled by the local tax bureaus, which will subsequently pass the cases to the SAT for approval. Consider the case when two group entities located in different cities apply for APAs at the same time. Despite the fact that they may have similar transaction types and function and risk profiles, their respective tax authorities may not employ exactly the same methodologies, comparable sets, periods of financials and even arm's length ranges to conclude the APAs. In such cases, the selected large enterprises may invite the LEAD to coordinate between local tax bureaus in order to align their practices.

Currently, most of the tax authorities encourage taxpayers to apply for APAs, and expect a higher level of compliance from taxpayers. Under this mechanism, taxpayers may achieve certainty on tax treatments for transactions with high risk or uncertainties through discussions with tax authorities. They are more likely to invest on a long-term basis and, as such, may help to stabilise the local business environment. In other words, the conclusion of an APA should be favourable to the taxpayers, tax authorities and local governments.

According to the unofficial statistics, the SAT is currently dealing with a number of accepted APA applications. With the improvement of services and administration for the large enterprises, there are indications that more APAs will be managed by the LEAD, which is an effective way for large enterprises to better manage their tax risks. This is echoed by the tax officials that were involved in the signing ceremony; they agreed that the conclusion of these two APAs ensures tax administration procedures to converge and, at the same time, results in reduced tax compliance costs. In view of the above, it is believed that the SAT will continue to develop the current tax administration for large enterprises, which will help open the lines of communication between the tax authorities and enterprises, and lead to better managed tax risks.

# Contact us

## Khoonming Ho

Partner in Charge, Tax  
China and Hong Kong SAR  
Tel. +86 (10) 8508 7082  
khoonming.ho@kpmg.com

## Beijing/Shenyang

### David Ling

Partner in Charge, Tax  
Northern China  
Tel. +86 (10) 8508 7083  
david.ling@kpmg.com

## Qingdao

### Vincent Pang

Tel. +86 (532) 8907 1728  
vincent.pang@kpmg.com

## Shanghai/Nanjing

### Lewis Lu

Partner in Charge, Tax  
Central China  
Tel. +86 (21) 2212 3421  
lewis.lu@kpmg.com

## Hangzhou

### Martin Ng

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

## Chengdu

### Anthony Chau

Tel. +86 (28) 8673 3916  
anthony.chau@kpmg.com

## Guangzhou

### Lilly Li

Tel. +86 (20) 3813 8999  
lilly.li@kpmg.com

## Fuzhou/Xiamen

### Jean Jin Li

Tel. +86 (592) 2150 888  
jean.j.li@kpmg.com

## Shenzhen

### Eileen Sun

Partner in Charge, Tax  
Southern China  
Tel. +86 (755) 2547 1188  
eileen.gh.sun@kpmg.com

## Hong Kong

### Karmen Yeung

Tel. +852 2143 8753  
karmen.yeung@kpmg.com

## Northern China

### David Ling

Partner in Charge, Tax  
Northern China  
Tel. +86 (10) 8508 7083  
david.ling@kpmg.com

## Vaughn Barber

Tel. +86 (10) 8508 7071  
vaughn.barber@kpmg.com

## Roger Di

Tel. +86 (10) 8508 7512  
roger.di@kpmg.com

## John Gu

Tel. +86 (10) 8508 7095  
john.gu@kpmg.com

## Jonathan Jia

Tel. +86 (10) 8508 7517  
jonathan.jia@kpmg.com

## Paul Ma

Tel. +86 (10) 8508 7076  
paul.ma@kpmg.com

## Vincent Pang

Tel. +86 (10) 8508 7516  
+86 (532) 8907 1728  
vincent.pang@kpmg.com

## Michael Wong

Tel. +86 (10) 8508 7085  
michael.wong@kpmg.com

## Irene Yan

Tel. +86 (10) 8508 7508  
irene.yan@kpmg.com

## Tracy Zhang

Tel. +86 (10) 8508 7509  
tracy.h.zhang@kpmg.com

## Abe Zhao

Tel. +86 (10) 8508 7096  
abe.zhao@kpmg.com

## Catherine Zhao

Tel. +86 (10) 8508 7515  
catherine.zhao@kpmg.com

## Kevin Lee

Tel. +86 (10) 8508 7536  
kevin.lee@kpmg.com

## Jesse Wang

Tel. +86 (10) 8508 7514  
jesse.wang@kpmg.com

## Central China

### Lewis Lu

Partner in Charge, Tax  
Central China  
Tel. +86 (21) 2212 3421  
lewis.lu@kpmg.com

## Anthony Chau

Tel. +86 (21) 2212 3206  
+86 (28) 8673 3916  
anthony.chau@kpmg.com

## Cheng Chi

Tel. +86 (21) 2212 3433  
cheng.chi@kpmg.com

## Dawn Foo

Tel. +86 (21) 2212 3412  
dawn.foo@kpmg.com

## Chris Ho

Tel. +86 (21) 2212 3406  
chris.ho@kpmg.com

## Lily Kang

Tel. +86 (21) 2212 3359  
lily.kang@kpmg.com

## Sunny Leung

Tel. +86 (21) 2212 3488  
sunny.leung@kpmg.com

## Martin Ng

Tel. +86 (21) 2212 2881  
+86 (571) 2803 8081  
martin.ng@kpmg.com

## Yasuhiko Otani

Tel. +86 (21) 2212 3360  
yasuhiko.otani@kpmg.com

## John Wang

Tel. +86 (21) 2212 3208  
john.wang@kpmg.com

## Jennifer Weng

Tel. +86 (21) 2212 3431  
jennifer.weng@kpmg.com

## Lachlan Wolfers

Tel. +86 (21) 2212 3515  
lachlan.wolfers@kpmg.com

## Grace Xie

Tel. +86 (21) 2212 3422  
grace.xie@kpmg.com

## Zichong Xu

Tel. +86 (21) 2212 3404  
zichong.xu@kpmg.com

## Leonard Zhang

Tel. +86 (21) 2212 3350  
leonard.zhang@kpmg.com

## William Zhang

Tel. +86 (21) 2212 3415  
william.zhang@kpmg.com

## Cheng Dong

Tel. +86 (21) 2212 3605  
cheng.dong@kpmg.com

## David Huang

Tel. +86 (21) 2212 3605  
david.huang@kpmg.com

## Yong Yong Ng

Tel. +86 (21) 2212 3440  
Yongyong.ng@kpmg.com

## Amy Rao

Tel. +86 (21) 2212 3208  
amy.rao@kpmg.com

## Michelle B. Zhou

Tel. +86 (21) 2212 3458  
micelle.b.zhou@kpmg.com

## Southern China

### Eileen Sun

Partner in Charge, Tax  
Southern China  
Tel. +86 (755) 2547 1188  
eileen.gh.sun@kpmg.com

## Angie Ho

Tel. +86 (755) 2547 1276  
angie.ho@kpmg.com

## Jean Jin Li

Tel. +86 (755) 2547 1128  
+86 (592) 2150 888

jean.j.li@kpmg.com

## Jean Ngan Li

Tel. +86 (755) 2547 1198  
jean.li@kpmg.com

## Lilly Li

Tel. +86 (20) 3813 8999  
lilly.li@kpmg.com

## Kelly Liao

Tel. +86 (20) 3813 8668  
kelly.liao@kpmg.com

## Bin Yang

Tel. +86 (20) 3813 8605  
bin.yang@kpmg.com

## Hong Kong

### Ayesha M. Lau

Partner in Charge, Tax  
Hong Kong SAR  
Tel. +852 2826 7165  
ayesha.lau@kpmg.com

## Chris Abbiss

Tel. +852 2826 7226  
chris.abbiss@kpmg.com

## Darren Bowdern

Tel. +852 2826 7166  
darren.bowdern@kpmg.com

## Alex Capri

Tel. +852 2826 7223  
alex.capri@kpmg.com

## Barbara Forrest

Tel. +852 2978 8941  
barbara.forrest@kpmg.com

## Ken Harvey

Tel. +852 2685 7806  
ken.harvey@kpmg.com

## Nigel Hobler

Tel. +852 2143 8784  
nigel.hobler@kpmg.com

## Charles Kinsley

Tel. +852 2826 8070  
charles.kinsley@kpmg.com

## John Kondos

Tel. +852 2685 7457  
john.kondos@kpmg.com

## Alice Leung

Tel. +852 2143 8711  
alice.leung@kpmg.com

## Curtis Ng

Tel. +852 2143 8709  
curtis.ng@kpmg.com

## Kari Pahlman

Tel. +852 2143 8777  
kari.pahlman@kpmg.com

## John Timpany

Tel. +852 2143 8790  
john.timpany@kpmg.com

## Jennifer Wong

Tel. +852 2978 8288  
jennifer.wong@kpmg.com

## Christopher Xing

Tel. +852 2978 8965  
christopher.xing@kpmg.com

## Karmen Yeung

Tel. +852 2143 8753  
karmen.yeung@kpmg.com