

## Update

### China

#### Transfer Pricing

With the new Enterprise Income Tax Law will take effect on 1 January 2008, Chapter 6 "Special Tax Adjustments" provides several issues on transfer pricing:

- (1) Cost Sharing Arrangements can be made on transactions with associated companies including intangibles assets, and labors.
- (2) Advance Pricing Agreements may be arrived with the tax authorities on pricing principles and methods of calculation.
- (3) Tax authorities will use a reasonable method to make adjustments on taxable income if the transaction arrangement does not have a reasonable commercial purposes.
- (4) The claim of interests will be declined if the ratio of leverage portion and equity portion exceeds the prescribed standard.

Detailed rules can be obtained from the Central Government website: <http://www.gov.cn/flfg/fl.htm>

### Hong Kong

Inland Revenue Dept. issued a Revised DIPN 5 in August 2007 to reflect legislative change in 2004 on the expansion of the scope of deduction for research and development expenditure. The definition of research and development expenditure is now extended, and is in line with the term in generally accepted accounting standards in Hong Kong.

### International

#### New .asia domain name

You can now consider for a Web address in \_\_.asia to signify your business in Pacific region. The activation process for .asia will start in 9 October 2007 for governments and relevant bodies, trademarked and service-marked companies, and companies in Asia. Go to DotAsia Organization for more: <http://www.dotasia.org>

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*You are welcomed to suggest interesting topics to us by email to : [info@darehabere.com](mailto:info@darehabere.com)*

*We will manage to address your concern in future issues.*

## Tax Briefing

### Prosecution and Jail Sentences for Tax Evasion

Payment may not be the end of the matters in tax investigation. Where circumstances are warranted, the Inland Revenue Department ("IRD") will initiate criminal prosecution against individual business owner for tax evasion and publicize the case as a warning to public .

On 3 September 2007, a taxpayer was convicted of evading tax. He had subdivided the property into two shops and had let out both but only reported the rental income from one shop. He was imposed a four months' suspended sentence and was fined for 270% of the tax evaded.

On 2 August 2007, a computer system analyst omitted most of his service income in the tax

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**Dare & Habere Consulting Ltd.** specializes in providing tax, transaction advisory, dispute support and corporate services.

*"Suspended sentence is not the bottom line of sentences"*

*"Concentrate on interest, not position"*

*"One's real needs, priorities, costs and constraints could encourage him to commit"*

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returns of a partnership operated and managed by him. The court sentenced him for seven months' sentence, suspended for three years, and fined \$540,000, about 200% of the tax evaded.

Suspended sentence is not the bottom line of sentences. On 3 July 2007, a company director had used two types of sales invoices to skip the company's income and false invoices to claim purchases and expenses. He was sentenced for two years' imprisonment *without suspended*. IRD publicized this is *the longest jail term* imposed in tax evasion cases.

### FAQ

- (1) What is the usual penalty if one was found of evading tax ?
- (2) Under which circumstances will IRD initiate criminal prosecution ?
- (3) What shall I do if I was being investigated by IRD ?

More on our webpage: [http://darehabere.com/dhe/ets/dhe\\_ts\\_in.html](http://darehabere.com/dhe/ets/dhe_ts_in.html)

## Win-Win Business Negotiation

**C**onfronting conflict is not an easy task for most people, especially when personal issues are involved in the conflict or dispute.

Every business negotiation involves different degrees of conflict. Each party has its own interests and benefits to take care. Even in a simple deal, a seller aims to negotiate for a higher price and, at the same time, the buyer thinks of paying price and quality. More complex issues and elements will be introduced when the matter passed along the human chains.

To handle conflicts or disputes effectively, we should consider such situation as only initiating factors for the need of negotiation. Negotiation facilitates the exchange of information and starts the decision-making process among different parties with different preferences.

Principled Negotiation is usually recognized as the most effective and friendly method in negotiation. There are four main elements:

1. Separate the human issues from the problem (not dealing it)

Keep a soft approach on human issues so that you can maintain an ease of communication channel and under higher degree of trust and reliability environment. Good working relationship always generates better outcomes.



Identify the human issues, not the position.

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We provide the following services :

### Tax

Preparation & Review  
Restructuring & Compliance  
Investigation & Dispute  
Transfer Pricing  
International Tax

### Transaction Advisory

Acquisition & Divestment  
Business Valuation  
Due Diligence  
Forensic Accounting  
Dispute Analysis & Litigation Support

### Corporate Services & Consulting

Business Setup & Incorporation  
Company Secretarial Service  
Accounting & Assurance  
Risk Assessment & Control  
Financial Management & Advisory

## Life/Balance

### Top of The World – Barrow, Alaska (I)

(by **Mr. Eric CK Yeung**, a traveler who is very keen on exploring scenic places)

Global warming has been a hot topic around us. You may see this fact at the front line in Barrow, AK.

Why we called it "Top of the world"? Barrow is the most populated human settlement closest to North Pole (Yr 2000: about 4,600; Yr 2006: about 4,000). It lies on top of the Globe, the northernmost city in the US & the North America Continent, facing the Arctic Ocean and only 530 km north of the Arctic Circle (about 350 miles).

The most appropriate season to visit is from late June to early August. The average temperate is approximately -5 °C to 10 °C. Between 10th May to 2nd August, you can experience the "Midnight Sun"- in these 84 days, there are sunrises but no sunsets.

The most frequent travel modes to Alaska area are by land and sea (cruise ship) routes. However, you cannot access Barrow by any road route nor take a cruise ship to approach. Barrow is not an alone. It can be easily reached by air route through scheduled flights from Fairbanks and Anchorage, possibly a Boeing 737-Combi jet of Alaska Airlines.

Don't forget to take an official Arctic Circle Certificate when you fly across the Arctic Circle to the ancient Inupiat Eskimo village of Barrow. Then, you may discover firsthand the lifestyles of Alaska's Arctic Coastal peoples and know more on whales hunting.....**(to be continued on next issue).**



Distance signs to the Poles and whale bones in Barrow. AK.

## Transaction Support

### Contract Tips: Active Voice vs. Passive Voice

We may draft simple contracts and set out contract clauses by ourselves for quick and simple transactions. A sentence in active voice is usually more concise and understandable to the readers because it makes clear that the actor should perform what kind of actions to the object. Compare the following examples:

- (a) "The Buyer shall pay the purchase price to the Seller."
- (b) "The purchase price shall be paid by the Buyer to the Seller."

In (a), the Buyer is the actor of the payment transaction and the action is "paying". In (b), the Buyer is no longer the focus of the sentence, but the price becomes the main subject.

**Tips:** This does not mean that we should always use active voice instead of passive voice in contract clauses. Passive voice may be a good option to bring out an addressed subject or in some circumstances such as on disguising matter or softening bad news.

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Tax • Transaction Advisory • Dispute Support

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Trust • Value • Commitment

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2. Concentrate on interest, not position

Explore the interests of each party and avoid setting any bottom line figures. Emphasize on standing or position will destroy any trust and reliable relationship. Most people are willing to pay a higher price to preserve their future interests.

3. Make alternative options for mutual benefit

Develop more options for choosing does not mean that you must choose immediately. Instead, you can develop more options for both in order to learn more on the acceptable terms and concerned interests.

4. Use objective criteria throughout the process

Yield principle on the problem or conflict issues. Maintain and be open to reasoning is the best way to keep objective. Logic in itself cannot influence people. One's real needs, priorities, costs and constraints could encourage him to commit.

To negotiate, you need to analyze elements that affect the participants' behavior and also make things happen to mutual satisfaction.

Next time, when you prepare to deal a conflict, put the above elements on a piece of paper prior and see if you can refresh yourselves during the confrontation and secure a more desirable result.

You may download a copy of : [Negotiation Technique Checklist](http://darehabere.com/dhe/ekc/dhe_kc_ps.html) at our website: [http://darehabere.com/dhe/ekc/dhe\\_kc\\_ps.html](http://darehabere.com/dhe/ekc/dhe_kc_ps.html)

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**Reminder**

- 13 July 2007 - The Employment (Amendment) Ordinance 2007 effected which requires the calculation of six statutory entitlements for employees by referring to the average wages earned by an employee during a 12-month period.
- 2 Oct 2007 - Extended due date for Individual Tax Return of sole-proprietorship business with tax representative.
- 31 Oct 2007 - Deadline for submitting further extension for company's profit tax return (year ended 31 March 2007) that has current year loss.
- 15 Nov 2007 - Extended due date for submitting company's profit tax return for year ended 31 March 2007.

Note: Your notice of assessment or personal assessment should reflect the 50% (max. HK\$15,000) tax rebate in 2006-07. Taxpayers received rental income or has a sole-proprietorship or partnership may elect personal assessment to enjoy the rebate.

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