Answer-to-Question-_1_

Under the double tax agreement between mainland China and Hong Kong ("DTA between China/Hong Kong"), dividend may be taxed in the Mainland China which ECO paying the dividends is a resident, and according to the laws of the Mainland China, but if the beneficial owner of the dividends is a resident of Hong Kong, the tax so charged shall not exceed:

(1) where the beneficial owner is a company directly owning at least 25% of the capital of the company which pays the dividends, 5% of the gross amount of the dividends;
(2) in any other case, 10% of the gross amount of the dividends.

SAT Announcement (2018) 9 ("Circular 9") provides that the term beneficial owner refers to a person who has the rights of ownership and control over the item of income, or the rights or property from which hat item of income is derived. According to Circular 9, the presence of the following would be considered as factors that could have an adverse effect on DCO's status as the beneficial owner:

1. The applicant is obligated to pay 50% or more of its income to a resident of third country (region) within 12 months from receipt from the income; both contractual obligations and de facto payment will be regarded as "obligated to pay";

2. The business activities undertaken by the applicant do not constitute substantive business activities which may include manufacturing, sales and management activities, as well as investment holding management activities of a substantive nature;

3. The treaty counterparty country (region) does not levy tax on the relevant income or exempts tax on the relevant income, or levies tax but the effective tax rate is very low.

Based on the above, in DCO's case, DCO may not be qualified as the beneficial owner of the dividend income received from ECO with the following reasons even the relevant income derived by ECO and distributed as dividend to DCO has likely been taxed in the mainland China:

1. DCO is obligated to pay more 50% of more (i.e. 80%) of the dividend income derived from ECO to BCO within one month after its receipt of dividends from ECO; and

2. With limited information provided, ECO is engaged in investment management in China and with 3 employees based in the UK, it cannot conclude that ECO is having substantive business activities.

However, there is a safe harbour rule under Circular 9, pursuant to which the following applicants will be regarded as beneficial owner no matter if the relevant requirements are satisfied or not:

1. The government of the treaty counterparty;
2. The resident company of the treaty counterparty in which the company is listed;
3. The individual who is a resident of the treaty counterparty;
4. The applicant whose share capital is 100% held directly or indirectly by one or several persons set out in the 3 items

---

above, provided that that intermediate shareholders in an indirect shareholding scenario, if any, are residents of China or the treaty counterparty.

Point 4 above may be relevant to determine whether safe harbour rules should be applied to DCO. In DCO's case, it satisfies that DCO's share capital is 100% indirectly held by ACO, a listed company resident in Hong Kong through BCO. However, under the indirect shareholding scenario, it is necessary to determine whether BCO is the resident of the Mainland China and Hong Kong.

Based on the information provided, BCO is responsible for the operation of products, investment management and brand maintenance as a regional headquarter, having a business office with about 100 employees in the UK, it is likely that the management and control of BCO is neither in the Mainland China nor Hong Kong, and thus BCO is likely not to be resident of the Mainland China nor Hong Kong.

Subject to the above, DCO should be be qualified as the beneficial owner of the dividend income derived from ECO, and thus DCO is not eligible for a reduced tax rate on dividend from ECO under the DTA between China/Hong Kong.

Answer-to-Question-_4(1)__

Under the double tax agreement between the Mainland China and the United Kingdom, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on includes especially

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine,an oil or gas well, a quarry or any other place of extraction of natural resources; and

(g) an installation or structure used for the exploration or exploitation of natural resources.

Notwithstanding the above, where a person, other than an agent of an independent status, is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those activities of a preparatory or auxiliary character, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment.

However, an enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that Other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly to almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, there will not be considered an agent of an independent status.

The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Under the FCO's case, the employees of GCO has exercised its authority to conclude contracts in the name of FCO which are responsible for deciding on the appropriate amount, type, and form of advertising and playing a principal role in the routine conclusion of sales contracts with Chinese customers by FCO without material modification.

Even though there is a service contract signed between FCL and GCO, GCO should not be considered as an independent agent as GCO devoted wholly or almost wholly on behalf of FCO and not for other parties.

Thus, FCO is regarded as having a permanent establishment in China under the double tax agreement between the Mainland China and the United Kingdom.

Answer-to-Question-_4(2)__

Under the case that FCO is regarded as having a permanent establishment in China. The taxable profits attributable to GCO should be determined in the following way.

Non-resident enterprise (i.e. FCO) with establishment in China shall pay Enterprise Income Tax for income sourced within China and for income sourced outside of China that is effectively connected with its establishment in China.

FCO shall set up accounting books in accordance with the Tax Collection and Administration Law and other pertinent laws and regulations, maintain adequate accounting books and records and accurately calculate the taxable income being commensurate with the functions and risks undertaken, as well as declare and pay EIT on an actual basis. Further, if FCO is unable to accurately calculate and file its taxable income because of incomplete accounting books, unable to check its accounts because of a lack of information of any other reasons, the tax authorities are entitled to assess taxable income using one of the methods, including deemed profit based on revenue, deemed profit based on costs and expenses and deemed profit based on expenditure.

However, in the case that FCO does not conduct its own operation and sales in China other than those undertaken by GCO, it might be easier for FCO to determine the taxable profits attributable to GCO, being the profits recorded in FCO's accounting books.

Answer-to-Question-_5__

Under the Double tax Agreement between the Mainland China and the UK, according to Article 8 - Shipping and Air Transport, profits of an enterprise of a Contracting State from the operations of ships or aircraft in international traffic shall be taxable in that State.

Profits from the operation of ships or aircraft in international traffic include:
(a) profits from the rental on a bare boat basis of ships or aircraft; and
(b) profits from the use, maintainance or rental of containers; where such rental or such use, maintainence or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

Subject to the above, the profits from leasing of two boats on a bare boat basisby XCO to YCO is subject to Article 8 of the DTA between Mainland China and the UK which the XCO's annual rental payment of RMB 15 million from YCO should be only taxable in the UK.

Answer-to-Question-_6__

Under the Double tax Agreement between the Mainland China and the UK, accroding to Article 14 - independent personal services, income derived by an individual who is a resident of a Contarcting State in respect of professional services or other activities of an independent charater shall be taxable only in that State except tin the following circumstances, when such income may also be taxed in the other Contracting State:

a)if he has a fixed base regulary avaliable to him in the other Contracting State for the purpose of performing his activities; or
b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any 12 month period commencing or ending in the fiscal year connected.

The term "professional services" include especially independent scientific, literary, artistic, educational or teaching activities.

Subject to the above, the academic presentation on the tax treatment of releavnt cross-border transactions to assembled senior managers from all of ZCO's group member companies by Ms Huang falls within "professional services" as educational or teaching activities. With limited information avaliable, on the assumption that Ms Huang does not have a fixed base regularly

avaliable to her in the Mainland China and she does not stay in the Mainland China for more than 183 days in any 12 month period commencing or ending in the fiscal year connected, the RMB20,000 payment received by Ms Huang should be taxed in the UK where Ms Huang is the resident in the UK.