

## 美国税务快讯

### 美国税务机关重点关注美国境外母公司 跨国集团

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美国政府于 2022 年 8 月签署《2022 年通胀削减法案》（“Inflation Reduction Act”），批准向美国国税局额外拨款 800 亿美元，除其他用途外，该项拨款将用于强化美国国税局的税收执法力度。

在额外拨款的支持下，美国国税局已经在不断强化税收执法力度。过去的一年里，美国国税局对未支付逾期税款的高净值个人和复杂合伙企业增强了关注力度。10 月 20 日，美国财政部和美国国税局发布新闻稿，宣布了确保大型企业按时纳税的新举措。

新闻稿特别指出：

- 针对一些协助其美国境外母公司在美国境内分销商品但未按照在美国进行销售所取得的利润额合理纳税的美国子公司，美国国税局正在进一步加大其合规力度。一些美国境外公司反复通过利用转让定价规则制造出亏损，从而避免申报合理的美国利润。为了打击这一策略，美国国税局向大约 150 家大型美国境外母公司的美国子公司发出合规警告，以重申其美国纳税义务并鼓励自我更正。

在一项典型的交易中，一家中国公司直接（或通过其非美国子公司）生产产品，并最终将该产品销往美国市场。作为直接从中国向美国消费者销售商品的替代方案，中国公司将成品出售给一家全资美国子公司（“美国公司”）。美国公司再将成品出售给美国终端消费者。这种安

排往往会让美国公司通过转让定价而产生少量应纳税所得额甚至产生税务亏损。美国国税局担心中国公司向美国公司销售货物的转让价格不合理，继而导致美国公司减少申报应纳税所得额。因此，美国转让定价规则要求关联方（如中国公司和美国公司）之间在公平交易的基础上达成交易。

该项举措应与美国国税局大型企业与国际部于 2017 年 1 月公布的现有“行动”计划关联，该计划旨在改善纳税申报表的选择、识别不合规风险事项及最大程度地利用有限的资源。大型企业与国际部隶属于美国国税局，负责有美国税务申报义务且资产达到 1,000 万美元的美国或非美国公司的税收管理业务。目前实施的 49 项政府行动清单中有几项与在美国开展业务的非美国公司相关，具体包括：

- 核实与非美国公司就申报 1120-F 表格（非美国公司的美国所得税纳税申报表）申请退税相关的预提所得税；
- 有申报义务的非美国公司（例如，因其存在美国贸易或业务）不按时申报 1120-F 表格；
- 有申报义务的非美国公司不申报 1120-F 表格（即使仅进行保护性申报）。

结合这些计划，大型企业与国际部还将同时处理与未申报收入、未披露资产或任何其他避税计划相关的纳税人违规行为。

所有在美国持有运营业务的中国母公司集团（包括通过美国子公司），即使未收到美国国税局的合规警告，都应关注此项举措。这一举措被视为审核美国业务和子公司税收模式的激励措施，侧重于确保转让定价政策及时更新，并符合现行法律法规。

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如果您需了解更多专业信息，请与以下德勤中国的美国税务组专业人员，或您在德勤的常用联系人沟通：

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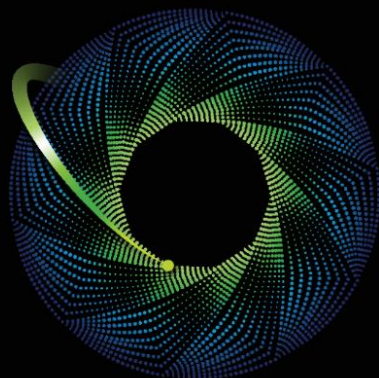
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## US Tax Newsflash

# US tax authority focuses on foreign-parented groups

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The Inflation Reduction Act of 2022 that was passed in August 2022 authorized nearly USD 80 billion of additional funding to the Internal Revenue Service (“IRS”). Amongst other uses, the funding is intended to help the IRS bolster tax enforcement.

Equipped with these additional resources, the IRS has been ramping up efforts to strengthen tax enforcement. In the past year, increased efforts have focused on high-income, high-wealth individuals who do not pay overdue tax bills and complex partnerships. On October 20, press releases issued by the US Department of Treasury and IRS announced new initiatives to ensure large corporations pay taxes owed.

The press release specifically states:

- The IRS is increasing compliance efforts on the US subsidiaries of foreign companies that distribute goods in the US and do not pay their fair share of tax on the profit they earn of their US activity. These foreign companies use transfer pricing rules year after year to report losses that are engineered through the improper use of these rules to avoid reporting an appropriate amount of US profit. To crack down on this strategy, the IRS is sending compliance alerts to approximately 150 subsidiaries of large foreign corporations to reiterate their US tax obligations and incentivize self-correction.

In a typical transaction, a China corporation (“China Co”), directly or through some other non-US subsidiary, will produce goods for ultimate sale to the US market. As an alternative to selling goods to US consumers directly from China, China Co will sell the finished good to a wholly owned US corporate subsidiary (“US Co”). US Co then sells the finished good to the ultimate US consumers. As part of this arrangement, the goods may be sold to US Co at a price that results in US Co generating a nominal amount of taxable income or, in some cases, a tax loss. The IRS is concerned that there is an inappropriate transfer price on the sale of goods from China Co to US Co, with the result that US Co is underreporting taxable income. In this regard, US transfer pricing rules require transactions entered into by and between related parties (e.g., China Co and US Co) be transacted on an arm’s length basis.

This development should be viewed in connection with the IRS Large Business & International (“LB&I”) Division’s existing “campaign” program that was announced in January 2017, the goal of which is to improve tax return selection, identify issues representing a risk of non-compliance,

and make the greatest use of limited resources. LB&I is a Division within the IRS that is responsible for tax administration activities for US and non-US businesses with a US tax reporting requirement and assets equal to or exceeding USD 10 million. Amongst the current list of 49 active campaigns, several are specifically related to non-US corporations with US operations, including the following:

- Verification of withholding tax related to non-US corporations claiming a tax refund associated with filing Form 1120-F (US Income Tax Return of a Foreign Corporation);
- Delinquent filing of Form 1120-F by a non-US corporation that has an obligation to file such form (e.g., as a result of having a US trade or business); and
- Non-filing (even if on a protective basis) of Form 1120-F by a non-US corporation that has an obligation to file such form.

In conjunction with, or in addition to these Campaigns, the LB&I Division will address taxpayer non-compliance related to unreported income, undisclosed assets, or any other tax avoidance scheme.

All China-parented corporate groups with US subsidiaries should pay attention to this development, even if they do not receive a compliance alert from the IRS. This development should be viewed as an incentive to review the tax model of US subsidiaries and operations, with a particular focus on ensuring transfer pricing policies are up to date and compliant with current law.

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